

R E P O R T

FROM THE

SELECT COMMITTEE

ON

MANOR COURTS, IRELAND;

TOGETHER WITH THE

MINUTES OF EVIDENCE,

APPENDIX, AND INDEX.

*Ordered, by The House of Commons, to be Printed,
30 July 1838.*

Veneris, 24^a die Novembris, 1837.

Ordered, THAT a Select Committee be appointed to inquire into the Operation of the Small Debt Jurisdiction of Manor Courts in Ireland, the Abuses which may exist therein, and the Remedies proper to be applied.

Mercurii, 29^a die Novembris, 1837.

A Committee was nominated of—

Mr. Morgan John O'Connell.
Mr. Attorney-General for Ireland.
Mr. Lynch.
Mr. Lucas.
Mr. Villiers Stuart.
Mr. French.
Sir Edmond Hayes.
The Earl of Hillsborough.

Mr. Jephson.
Mr. Wye.
Mr. Mackinnon.
Mr. Bridgeman.
Mr. Maher.
Captain Meynell.
Mr. Litton.

Ordered, THAT the Committee have power to send for Persons, Papers, and Records.

Ordered, THAT Five be the Quorum of the Committee.

Jovis, 7^a die Decembris, 1837.

Ordered, THAT the Report and Evidence taken before the Committee in the last Session, be referred to the Committee.

Luas, 19^a die Martii, 1838.

Ordered, THAT Mr. Lynch be discharged from further attendance, and that Mr. Redington be added to the Committee.

Luas, 30^a die Julii, 1838.

Ordered, THAT the Committee have power to report their Observations, together with the Minutes of the Evidence taken before them, to The House.

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REPORT.

THE SELECT COMMITTEE appointed to inquire into the Operation of the SMALL DEBT JURISDICTION of MANOR COURTS in Ireland, the Abuses which may exist therein, and the Remedies proper to be applied, and who were empowered to report the MINUTES OF EVIDENCE taken before them, together with their Observations thereupon, to The House :—HAVE considered the matters to them referred, and have agreed to the following REPORT :

THAT it is the opinion of this Committee—

1. THAT it is highly desirable that the means of recovering Small Debts in Ireland should be easy, cheap, and effectual.

2. THAT the frequent holding of well-regulated Courts for such purpose, placed in convenient situations, presided over by competent and impartial judges, and conducted on a simple and uniform system, would conduce materially to that end.

3. THAT the Assistant Barristers' Courts are found highly efficient for the recovery of small debts, and that the establishment of such Courts has proved eminently beneficial to the public.

4. THAT if the costs in such Courts for the recovery of debts not exceeding forty shillings were reduced, if they were held more frequently, and in such localities as that suitors, defendants, and witnesses would not be compelled to be absent at night from their homes, the necessity of Courts of inferior jurisdiction might probably be avoided, unless in considerable towns.

5. THAT until such extension of the Assistant Barristers' Courts shall take place, to which there appear very serious obstacles, it is desirable and necessary to preserve and take advantage of the Courts now existing in different parts of Ireland (though by no means equally or universally distributed) for the recovery of small debts; reducing the costs, and placing many of them on a more satisfactory footing than by the evidence taken before this Committee they now appear to be.

THAT among the means that might be devised for their better regulation, appear to be the following; viz.—

1. That no appointment of a Seneschal be final until approved by the next going Judge of Assize; and that any Seneschal acting after the assizes which shall occur subsequent to his appointment, without such approval, or without previously lodging with peace-clerk the security required by law, and the constat of the patent under which he claims to act, with a translation into English in cases where the patent is not in English, and a copy of his nomination, be subject to a fine; and that additional facilities be given to the public to punish Seneschals who shall try causes not within their jurisdiction.

2. That

2. That every Seneschal shall, on or before the 15th January in each year, deliver to the clerk of the peace a certified copy of the proceedings of his Court for the preceding year, which copy shall be laid before the Court at the next spring assizes, together with a return made out by the clerk of the peace of all Courts for the recovery of small debts within his district; which return shall further state when the respective officers presiding over such Courts were appointed; whether they have lodged the necessary legal security and constat of their respective patents; whether their appointments have respectively been approved, by whom, and at what period.

3. That every Peace-clerk shall keep in his office, and suffer to be inspected at all reasonable times, an alphabetical list of all townlands within his district over which manorial jurisdiction is claimed, according to the patents lodged with him; stating the parish, barony, and county wherein situate; the name of the manor, lord of the manor, and seneschal; the nature of the respective Courts claimed to be held; the nature of the Courts actually and usually held; and the usual time and place of holding the same.

4. That the powers, privileges, and practice of all such Courts be rendered uniform, so that a person acquainted with the law as administered in any one such Court, shall be in no danger of running into error as to the administration of the law in any other such Court; and that the process by distringas upon goods be so regulated as to prevent its being used oppressively.

5. That in no case shall a Court be held in a house where spirituous liquors are sold.

6. That appeal be to the Assistant Barrister at next quarter sessions, with power to him to give costs to either party; and that no appeal be received without an affidavit, on the part of the appellant or his attorney, of belief in the justice of the appeal; nor without lodgment of such sum as shall secure the parties against vexatious appeals.

7. That seven, instead of twelve, shall, in all cases, be a sufficient Jury; and that, with consent of parties, five or three be a sufficient Jury; and that increased powers be given to Seneschals to secure the attendance of jurors.

29 July 1839.

 PROCEEDINGS OF THE COMMITTEE.

Jouis, 7^e die Decembris, 1837.

Mr. MORGAN JOHN O'CONNELL, in the Chair.

Mr. Litton.
Earl of Hillsborough.

Mr. V. Stuart,
Captain Meynell.

Lunæ, 14^a die Maii, 1838.

Mr. MORGAN JOHN O'CONNELL, in the Chair.

Mr. Lucas.
Mr. Jephson.

Mr. Redington.
Captain Meynell.

Veneris, 18^o die Maii, 1838.

Mr. MORGAN JOHN O'CONNELL, in the Chair.

Mr. Bridgeman.
Mr. Litton.

Captain Meynell.
Mr. Redington.

Mercurii, 11^a die Julii, 1838.

Sir DENHAM JEPHSON, in the Chair.

Mr. Litton.
Captain Meynell.

Lord Hillsborough.
Mr. Lucas.

Jouis, 12^a die Julii, 1838.

Sir DENHAM JEPHSON, in the Chair.

Mr. Redington.
Mr. Litton.
Lord Hillsborough.
Sir E. Hayes.

Mr. Bridgeman.
Mr. Lucas.
Captain Meynell.

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MINUTES OF EVIDENCE

Martis, 20^a die Februarii, 1838.

MEMBERS PRESENT.

Mr. Bridgman.
Mr. French.
Mr. Lucas.
Mr. Mackinnon.

Mr. Maher.
Captain Meynell.
Mr. M. J. O'Connell.

M. J. O'CONNELL, ESQ. IN THE CHAIR.

Mr. *Frederic William Maccaulay*, called in; and Examined.

1. *Chairman.*] WHAT is your profession?—I am a solicitor, in Ireland.
2. In what part of Ireland?—In the county of Antrim; and also a Parliamentary agent here.
3. Did you ever practise in the court of Moylinny, in the county of Antrim?—I have been several times in the court: I cannot say I have practised in it.
4. Have you ever been concerned in any case?—I have been concerned in some cases, partially.
5. Have you been concerned in the case respecting which evidence was given before this Committee last year by Mr. Sausse?—Yes, two cases, which I find referred to in the report.
6. You have perused the evidence of Mr. Sausse?—I have.
7. Did you give evidence at the time of the inquiry into municipal corporations in Ireland, before Mr. Sausse and his brother commissioner, Mr. Hudson, on the subject of the proceedings in those cases?—I did.
8. Are there any statements appearing in the evidence of Mr. Sausse which you wish to correct or explain?—Yes, there are several.
9. In what particular questions, according to the numbers of the evidence of last year, are they contained?—The objections refer to the statements generally. I can scarcely point out any particular question; but, beginning at No. 4533, in which the first action is mentioned; what I stated upon that occasion was, that I understood that in other manor courts the entire costs amounted to four guineas; but how much of that belonged to the seneschal and how much to me, I did not know, nor do I know now. It is stated here I said I was to get four guineas, and the seneschal was to get the remainder; that was not it, but it is the fact that he said, "Four guineas would be little enough for yourself, and I think I had better have as much." "Very well," said I, "do as you please." I do not know any more about it. It is stated afterwards, in No. 4455, in answer to a question by Mr. Lucas, that I was the attorney for the plaintiff. The entire I had to say to the transaction was this: the debt was to the amount of 35 *l.* 1*s.*; two attachments were issued for 17 *l.* 10*s.* 6*d.* each, because it was beyond the jurisdiction of the court. They issued the attachments, I believe, as a matter of course; the thing was quite usual; but the defendant in that case gave in bail, and it was then I first heard of it. It was then the party

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came to me to say, "I have done this; bail is given; what am I to do now?" Ledlie & Co., of Antrim, my clients, were a very respectable firm indeed, and I told them I thought they had done very wrong, and that they must drop one of the attachments, because they could not go on with both of them, and it rested with them whether they chose to go on with one of them, or in a proper way, giving up the goods (because they said they were afraid, having taken the goods); and they preferred proceeding on the one attachment.

10. Mr. Lucas.] What did you mean by giving up the goods, and proceeding the proper way?—In a superior court; or, if they preferred, going on with one attachment and making sure of that. I went into the court, and pleaded the matter for them, but I had nothing whatever to say to it before my appearance in the court or after it. It was then that I prepared the declaration that was necessary, a common-law declaration, but further I had nothing to say to it; nor had I in any other case in which I was concerned in the court. I went in to plead the case, but as to the issuing of the process, or the proceedings of the court, or the issuing of the decree, or anything of that kind, I had nothing to say to it, and I would not, because the whole practice was so abominable.

11. When you were called upon first to take any part in the case, you found two attachments had been issued?—Yes.

12. They split the cause into two suits, each of which would come under the known legal jurisdiction of the court?—Exactly.

13. You, finding that to be the state of the case, advised the dropping of one of those attachments?—Certainly.

14. Conceiving only one could be legally entertained?—Yes.

15. And it was so done?—It was so done; but after the finding of the court for the amount of one, it appeared afterwards that the seneschal was not contented with that, with the 17*l.* 10*s.* 6*d.*, but he actually altered the attachment, which I showed the commissioners at that time. I handed them all the documents. He altered it to 20*l.*, to make it as much as possible, and added 10*l.* costs.

16. Chairman.] Is it correctly stated in the same answer, 4533, that that alteration was made in your presence?—I have no recollection of that; I should think it was not.

17. Mr. Lucas.] If made in your presence, was it made with your knowledge?—If it were made in my presence, it must have been made with my knowledge; but I have no recollection of its being made; and I recollect the particular circumstances most distinctly, because it was the first time I ever was in the court; that is what impressed it upon me; and the proceedings altogether were so extraordinary, that I recollect them perfectly. It was held in a small back room of an inn in the town. I left the place as soon as I could get out; it was a little room, in which the seneschal, the jurors, and the witnesses, were all crowded together; and the seneschal came out into the street after me, to ask me that about the costs, and to ask the plaintiff, who came out with me, for some money to treat the jury.

18. Then I gather from you, that if this were done in your presence, and were done with your knowledge, it was done by the seneschal as his own act, and an act in which you had no concern?—Precisely: I could not control him; I could not have attempted to control him; I should have said, "You may do as you like, but I shall have nothing to do with it."

19. You were acting as counsel in the case, but not as an officer of the court?—I so considered myself. I had nothing to say to it whatever, except the mere pleading of the cause.

20. Chairman.] Then was it after you left the court that the seneschal came and asked you your opinion about the amount of the costs?—It was; he followed me out into the street.

21. Do you consider that proceeding of the seneschal itself a regular one, leaving his court in order to consult you about his costs?—Most decidedly not; very irregular.

22. Mr. Lucas.] The proceeding you consider was irregular, in the seneschal walking out of his court to consult you, for the court was not broken up, and he returned afterwards to complete the business?—Yes.

23. Chairman.]

23. *Chairman.*] Mr. Sausse also was asked, whether the defendant in that case employed an attorney, and he answered, he did not recollect; do you remember whether he did or not?—He had not an attorney, I think; I am pretty sure he had not.

24. In the decree in which the alteration was made in the figures from 17*l.* 10*s.* 6*d.* to 20*l.*, did not the written words, seventeen pounds, ten shillings and sixpence, remain unaltered?—In the attachment, not in the decree. He altered the figures in the attachment, in order to make it tally with the decree.

25. Then, in one of the attachments, the one which was proceeded upon, the figures were altered, and the words were unaltered?—Yes, that is my recollection.

26. Had you any connexion with the case afterwards; are you aware whether the decree was levied?—The defendant told me he paid it.

27. Did he pay the whole amount?—He paid the whole amount; because I recollect he came to me afterwards, to ask me whether he could not recover the overcharge in the costs from the seneschal.

28. And what did you tell him?—I told him he might; and the seneschal was processed to the quarter sessions for it; I acted for the man in it, and the assistant barrister said he had no jurisdiction. When I found what had been the case, I would have done anything I could to assist the man in it.

29. There is a doubt expressed in the answer to the question 4557, as to whether you had stated your having or not having received the sum of five guineas, which was charged for costs; can you clear up that doubt?—I was paid by my client, but I cannot state the amount; I am sure it was not five guineas; I think it was four guineas; but it was after the time I saw the commissioners that I was paid, because those gentlemen, Messrs. Ledlie & Co., were my clients, and there was a long running account between them and me; the firm was afterwards dissolved, and Mr. Ledlie has since left the country, it was not until that period my account was settled; and that is the reason why it appears so here.

30. Are you able to state whether the seneschal received his proportion of the costs from Mr. Ledlie?—I can only say, that Mr. Ledlie told me that he had given him, he believed, very nearly 10*l.* for those two attachments, from time to time, besides his paying me.

31. It included the original costs of the attachment as well as the costs of the hearing?—Yes, from time to time.

32. In the case of Gault v. Murphy, which is mentioned also in this report, were you concerned professionally for either party?—I was merely applied to by Gault, stating that a writ of *certiorari* had been issued, and requesting to know what he could do upon it; I applied to the seneschal for the different proceedings, in order to have a return made out, as the return which I was advised was usual, and he had no proceedings whatever to hand over, neither an affidavit of debt, nor the declaration, nor the decree, nor anything else. The amount was small; I cannot exactly recollect what it was, and my advice to the man was, that it was better for him to lose it than commence proceedings.

33. You mention there was no affidavit of debt?—No; no such thing was ever taken.

34. Is it generally customary, or was it customary in the manor court of Moylinny, to require an affidavit of debt before issuing an attachment?—No, I believe not.

35. Mr. Lucas.] What ground do you rest that belief upon; have you had occasion to know it?—I have seen blank attachments in the possession of persons, who might have filled them up for any sum they pleased, and one or two persons have told me they had done so.

36. Those blank attachments being directed to the bailiff of the court, they had nothing to do but to hand them to the bailiff for execution?—They were not directed to any person; there was no regular bailiff of the court; they might hand them to whom they pleased.

37. And any person might execute them at his own risk?—Any person whatever.

38. *Chairman.*] In that case then, from the misconduct of the seneschal, the plaintiff's right to his debt was lost?—Yes.

39. You

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39. You stated it was a trifling sum, and it was not worth his while to proceed upon it?—Yes, I advised him not to do so.

40. If it had been a sum sufficient to warrant him in going to expense to recover it, what would have been his course?—His course would have been, I imagine, by action against the seneschal, by application to the Court of Queen's Bench. The seneschal is ordered to give bail, but I understood this man never did give bail.

41. Mr. Lucas.] If that seneschal never did give bail, was not that a great dereliction of duty on the part of the clerk of the peace for the county?—No; I do not see how the clerk of the peace could enforce bail being given; it is the duty of the seneschal before he acts to give bail, therefore I conceive any act he does without that would not be legal, because he would not be properly installed in his office until he gave bail.

42. Then, according to your belief, the clerk of the peace acts merely as the depositary of the document?—Merely.

43. And he has no power to compel its production?—I conceive he has not any.

44. Chairman.] Do you remember what became of the goods that were taken in that case of Gault v. Murphy?—No, I do not know anything of that.

45. Were you not concerned for the plaintiff?—Merely when the *certiorari* was issued. I should suppose the goods had been given up on bail being put in; I take for granted they were, but I know nothing of it. In the case of *Ledlie v. Macartney*, the goods seized was a puncheon of whiskey; it was seized *in transitu* through the manor; Macartney lived out of the manor altogether; it was taken away into the custody of the plaintiff, and was, I believe, put into other casks, in order to prevent its being identified again; but ultimately it was given up.

46. The whiskey was taken into the custody of the plaintiff?—Yes; there was no marshalsea of the court; all goods were taken into the custody of the plaintiff, to do what he liked with.

47. There is now a marshalsea?—I am not aware of such; I believe not.

48. It was also stated by Mr. Samse that the seneschal seemed to consider the plaintiff in those cases did everything at his peril?—He did.

49. And that he himself was exonerated from any responsibility?—Yes; he frequently stated so.

50. Is he correctly described as being an eccentric, hasty old gentleman?—He was generally hasty, sometimes from the effects of intoxication. He was once a very respectable man, a man of property.

51. Have you ever known any goods lost, from the want of a marshalsea, or of a responsible person to take charge of goods seized under attachments?—Parties have applied to me, stating that their goods had been taken away, and they could not get them back on bail being given in, but I would not interfere in such matters; I knew the kind of court it was, and that there was no use in attempting to get anything properly done in it; and I never did interfere, only where I could not avoid it, where it was for persons I did not wish to refuse.

52. That seneschal has since resigned his office?—He resigned it some two or three years ago; and he died, I understand, within the last year.

53. Is the seneschal who has succeeded him a more efficient person?—Yes, very much so.

54. Is he a younger man?—He is a man, I suppose, of 27 or 28 years of age.

55. Of what profession?—An attorney; he is extremely anxious, and does everything in his power to make his court respectable.

56. In the time of the former seneschal, what was generally the proportion of attachment cases to civil bill cases?—That I could have no idea of; most of the attachment cases never were known to the court at all, because they were neither more nor less than those blank attachments filled up, the goods seized, and then the parties made some compromise, and the thing dropped. I laid hold of a parcel of those blank attachments myself upon one occasion, and I think I gave them to the commissioners; I know I had them, and I think I gave them to the commissioners of inquiry.

57. Mr.

57. Mr. Lucas.] Did you ever know an appeal from the court of Moylinny to the quarter sessions?—Frequently, to the assizes.

58. That is, in fact, the appeal?—Yes.

59. Would it not be the duty of the judge presiding at the assizes to ascertain, in cases of an appeal, whether the legal forms had been complied with by the officer of the court?—No, not unless brought before him by the parties. I think the judges are always disinclined to allow those points of form, or mere nice legal points, to be brought before them; they rather wish to hear the case upon the merits, if possible; I think that is generally their feeling. I have known the seneschal at Moylinny refuse appeals over and over again.

60. Chairman.] Was not the appeal tendered in open court?—I think it was. My information was, from the party coming to me to say such a thing occurred in the court. My reply would be, "Your only remedy is to appeal;" and he has come back to me, and said, "Sir, the seneschal will not receive my appeal." I have said, "Well, I cannot help it." I did not wish to have anything more to say to it.

61. Another complaint was made of trials on attachments in that court being had upon very short notice, almost immediately on the bail being given to the attachment; did any instance of that come within your knowledge?—There was no regulated kind of proceeding whatever in the court, and you might as well have a trial on one day's notice as a fortnight. You might have your trial when you pleased, if you paid for it; that was the secret.

62. Then the court-days were not regularly appointed?—Yes, there were court-days regularly appointed.

63. Mr. Maker.] Do you mean to say you could have a trial out of those court-days, by paying for it?—No. Supposing you had an attachment, upon which you seized goods to day, and the first court-day was two or three days hence, you could manage to have your trial then, instead of waiting your usual time; that was the way it was done.

64. Chairman.] How many manor courts are there in the county of Antrim?—I think fourteen.

65. There are some manors which have more than one court held in them?—Yes.

66. For instance, that manor of Moylinny has a court at Antrim and a court at Drough?—Yes.

67. And there is another court under the same charter?—Yes, at Ballylinny.

68. Of which the same person is seneschal?—Yes.

69. How many of the seneschals in the county of Antrim are professional men?—Three.

70. Attorneys or barristers?—Attorneys: Mr. Stewart, the seneschal of Belfast; Mr. Gamble, of Moylinny, and Mr. Harrison, of Kerte, near Ballymena; he was an attorney, but he has not practised for many years.

71. How many other seneschals are there?—There are eight seneschals in all.

72. Are many of the other seneschals magistrates of the county?—Three of the others are magistrates, Mr. Casement, Major Higginson, and Mr. Davison.

73. The practice of calling in an assessor upon some occasions has been mentioned by a former witness, who is also a seneschal in that county, Mr. Gregg, the seneschal of Lisburn. Mr. Gregg has stated, upon some occasions, he used to call in a legal person as assessor; has that custom been pursued by any other persons in the county of Antrim, to your knowledge?—Yes; Mr. Gregg, I believe, has regularly had an assessor, and his court is remarkably well conducted indeed. Major Higginson, upon being inducted into the court, had also an assessor, an attorney, who, I believe, still goes the circuit with him.

74. Is Major Higginson the seneschal of more than one court?—Yes, he is of several; he is the seneschal of Lord O'Neill's manors of Backnaw, Cushel, Edendufferrick, and Mullagane.

75. It appears from the evidence, that no case of assessors being called in, was ever brought under the notice of the corporation commissioners; and it appears from the former evidence, and from yours, that two of the courts in which the seneschals were in the habit of calling in legal persons, were in towns in which corporations either do exist or had existed, and in which, therefore, the working of the manor courts came within the scope of their inquiry; does it not strike you as somewhat singular that no mention was made of that practice

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tice to the commissioners?—Perhaps it did not exist at that time. In one case I know it did not: in Major Higginson's case, as he has not been appointed more than a couple of years, and Mr. Gregg, it appears, was not appointed until February 1834.

76. Are the attorneys who are seneschals of courts in the habit of practising in the districts over which their courts have jurisdiction?—Yes.

77. Constantly?—Yes, certainly.

78. Would you not except from that answer the gentleman you mentioned, who had retired from practice?—While he did practice, his practice extended over the district of which he was seneschal.

79. Did you observe any dislike, on the part of seneschals who were unprofessional men, to the presence of legal men in their courts?—Yes, always, whatever they might say to the contrary. They seemed to think it was a want of confidence in themselves shown by the party, where they sought the assistance of a professional man; and I have sometimes told persons "You will do better without me," from that cause.

80. Did the same feeling seem to extend to the jury?—I do not think the jury cared.

81. A cause generally takes up more time if an attorney got into the merits of his client's case, than would be taken up without his assistance?—Yes; but time is not very valuable to the kind of persons placed upon those juries. I think they attend there more as a matter of amusement than anything else, and to have the settlement of their neighbours' affairs.

82. Mr. Meher.] Is there any regular remuneration for their attendance?—There is a shilling in each case given to the entire jury, I believe; it is no remuneration.

83. Is not that generally a ground for giving them more?—I am not aware; it may be or it may not.

84. Is it the general habit to give them more than that sum?—I should not think it was.

85. Chairman.] In the last answer, do you refer to the courts generally, or only to the court of Moylinny?—The courts generally.

86. The shilling you have mentioned, is it directly chargeable for the jury, and to be given to the jury, against the plaintiff or defendant in the cause?—I have understood the jury have refused to give their verdict until they got their shilling; until they were paid.

87. In the Act of the 25 Geo. 3, there is an allowance of one shilling for summoning the jury, to the bailiff or marshal of the court; do you conceive the practice of giving the jury a shilling has been founded upon that clause in the Act?—I cannot say as to that; I cannot say whether it is founded upon that or not. I should say, they conceive they have a right to it.

88. There being, as you have stated, in the court of Moylinny, no bailiff or marshal, and, consequently, no jury summoned by them, are you aware whether the charge of a shilling for performing that duty was deducted from the civil bill costs of the suit?—No, it was not.

89. You alluded to the jury in one court having sent to the successful party to know what he would give them, according to the custom you have mentioned; did he give them any gratuity?—It was the seneschal himself.

90. And did Mr. Ledlie give the seneschal anything for the use of the jury?—He asked what he should give, and the seneschal said, what he pleased, something for them to drink; and Mr. Ledlie went back into the court, and upon coming to me again at my office, he told me he had ordered them a quart of whiskey.

91. Was that quart of whiskey ordered for the jury before the proceedings had terminated?—No; it was after they had terminated.

92. You have not practised in any of the other manor courts?—I have been in the manor courts of Edenduffcarrick, and Mullagane.

93. Professionally?—Yes, just in the same way as in Moylinny and Ballylinny.

94. In the other courts you have mentioned, were the jurors regularly summoned?—I think they were.

95. In the court of Moylinny, since the present seneschal has been appointed, has the practice of summoning juries been adopted?—Yes; the jurors are very respectable now in the manor of Moylinny.

96. Since

96. Since the appointment of the present seneschal, where has the court of Moylinny been held in the town of Antrim?—In the quarter sessions court-house. At Drough it is held in an inn; and at Temple Patrick, in a public-house.

97. Is there any other place for holding the court at Temple Patrick, except in a public-house?—No; I think it is the best place in which it could be held.

98. A distinction has been drawn by some witnesses, as to the willingness for such a jurisdiction as manor courts possess, on the part of the town population and the rural population, some considering that the town population are much more friendly to that kind of jurisdiction than the rural population; what is your opinion upon that question?—I have no idea there is any such distinction in the part of the country I have been in.

99. But where the process of attachment exists, do you not consider that it is more in favour with the town dealers than the country farmers?—Of course it is more liked by dealers of every kind, whether they be in town or country; but I do not think the fact of their living in towns would make it more so; it is from the circumstance that you do find more dealers in towns than in the country.

100. More creditors, in fact?—Yes.

101. Creditors prefer the attachment process, and debtors do not?—Yes; and it is preferred on account of the remedy it immediately gives where parties are leaving the country; there is so much emigration from that part.

102. Are there any other defects in the general system of the manor courts which have struck you, and which you wish to mention to this Committee?—Yes, there are; there is one thing I look upon as quite absurd, and that is, that the process is to be dated seven days before the trial, and may be served only three days; I cannot conceive the slightest reason for that. The mode of appointing the seneschal also is quite too loose.

103. Is it not at least an evasion, if not a violation of the Act of Parliament, that system of serving the process?—No, the Act of Parliament provides for it; it says that it is to be signed seven days before, and may be served only three.

104. Do you consider that the evil is to be attributed to the sort of fiction which is contained in a proceeding of that kind, or to the shortness of the notice itself?—To the shortness of the notice as much as the other.

105. Are the manors in general large, and are the places for holding courts remote?—They are large; the manor of Moylinny, for instance; from Antrim to Drough is six miles; and it is considerably more extended than that.

106. But there are courts held at each of those places?—There are.

107. Are they held at times convenient for each other?—They immediately follow each other.

108. Then they are held for different districts of the manor, and not the whole?—No, they are held for the whole manor, and they are held immediately after. The seneschal himself resides in Belfast; he does not reside in the manor; he resides 10 miles off, and he appoints those circuits for his different courts day after day, and they are held accordingly, but I have known parties summoned from Antrim to the court at Drough, for the purpose of annoyance, generally respectable parties; I recollect being obliged to go to Drough to defend a process there, served upon a gentleman by his servant, and, after the process had been defeated at Antrim, it was then brought at Drough, in order to annoy him.

109. Mr. Lucas.] Does not that apply to some other courts for small debts as well as the seneschals' courts?—Yes; it applies to the quarter sessions courts, as at present established.

110. Does it apply to any other small debt courts?—I cannot say.

111. Do you know anything of the local courts at Dublin?—No.

112. Then you cannot say whether it applies to them or not?—No.

113. Can persons be summoned to a considerable distance from the quarter sessions courts in the county of Antrim?—They can.

114. For the recovery of small debts?—They can; I have known instances where they have been summoned from below a place called Toome to Belfast, which is 22 Irish miles distant, and I have known them detained there per-

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haps a week, while there was a quarter sessions town only nine miles off, that is Antrim, which is between Toome and Belfast.

115. Does that result unavoidably from the geographical shape of the district, or from a bad arrangement with regard to the courts?—It is not from the geographical position of the places, but from the arrangement of the quarter sessions; there are only two divisions in the county, and of course they must be very large, and the quarter sessions at Belfast are held immediately after the quarter sessions at Antrim, therefore parties who either wish to annoy the defendants, or who perhaps may not be able to get their processes served in time for Antrim, would serve them for Belfast, which would be a week later, and they take them all that distance.

116. Then that is not an inconvenience which results from the nature or constitution of small debt courts, whether manor courts or assistant barristers' courts, but from a defective and inconvenient arrangement as regards the position of the courts themselves?—I think so; I know an instance within the last six months, where a gentleman residing in Belfast, who is a tithe-holder of the parish of Dunesane, in which Toome is situated, processed 100 or 200 persons the distance I have stated, and although some of the claims were not more than 5s., 10s., 15s., or 20s., those persons were detained for a week or ten days.

117. Is your own opinion favourable to the maintenance of small courts for the recovery of small debts?—Decidedly.

118. Then any objections you have stated now are objections not to small courts generally, but to the defective constitution and position of them?—Certainly.

119. *Chairman.*] You stated another objection, the manner in which seneschals were appointed; will you explain that more fully?—It is, that there is no restriction whatever upon the lord of the manor appointing whomsoever he pleases, and there have been many cases where persons not at all proper for the situation have been appointed.

120. *Mr. Lucas.*] Is there not this restriction by law, that although the lord of the manor may appoint any person he chooses to select, fit or unfit, yet that person is bound by his responsibility, by the law obliging him to lodge security to the amount of 500 l. with the clerk of the peace?—Yes, but if a person finds the man who is appointed not to be a competent man, it implies the necessity of that person bringing an action against him, and in the situation of life in which the suitors generally are, it would be an impossibility for them to do so.

121. Is it the interest of the lord of the manor to appoint a fit or an unfit person for the office of seneschal in his manor?—I should say, of course, a fit person, except under particular circumstances. Now there is the manor of Moylinny, in which it is a matter of very little consequence to the lord of the manor, Lord Donegal, whom he appoints; for though he is the lord of the manor, yet the greater portion of that is held by under-tenants of his for ever: for instance, the land in Antrim, and all about it, is held under the Donegal family by Lord Ferrard for ever. Now, in that district, Lord Donegal appoints the seneschal.

122. Generally, however, I understand your opinion to be, that it would be the interest of the lord of the manor to appoint a fit person to be seneschal?—Yes, where the manor is in his own estate, and is his own property; but where he is the mere lord of the manor, and the property is in the hands of others, he has no interest in it.

123. What remedies would you propose for better securing the appointment of fit persons to be seneschals?—What I should propose would be, that the person to be appointed, whoever he is, should have a certificate, after examination, from the chief justice of the Queen's Bench, or some of the judges to be appointed or named, that he is a proper person for the situation, after an examination upon the common principles of law.

124. Does any other security occur to you at present?—I do not think there is any. It has been mentioned by some persons that there ought to be a qualification by property, but I do not see that; I do not see why a qualification of property should be asked from the seneschal more than from an assistant barrister or a judge.

125. *Mr. Maher.*] Do you not think it would be necessary to have some pecuniary security, in the shape of bail, for the legality of his acts?—I do not think so at all; I do not see why that should be more required of one than the

the other; to make him amenable, of course he should be liable to dismissal if he does anything wrong.

126. *Chairman.*] In whom would you vest the power of dismissal?—In one of the courts.

127. *Mr. Lucas.*] Is it not the law at present, that the seneschal must, before he sets, lodge security to the amount of 500*l.* with the clerk of the peace for the county?—Yes.

128. Could you suggest any means of more effectual compulsion towards the lodging of that security, for you have stated in some cases you have known the security not to have been passed?—I fancied it was not.

129. Then could you suggest any more effectual provision for compelling the seneschal in all cases to lodge that security?—The necessity of his doing so might be rested upon the lord of the manor; that is, in case the lord of the manor appointed any person who did not perfect that security within a certain period, or if he acted without, that the lord of the manor should be responsible.

130. What would you think of this suggestion, that the assistant barrister should, at a time named, say the present moment, call upon all those seneschals claiming to act within the district for which he is assistant barrister, to show their security, or to perfect it where it does not exist?—If a thing of that kind were necessary, I think it should be rather done by the judge of assize.

131. Should you consider that a desirable step to be made incumbent upon the judge of assize?—I do.

132. At certain times?—Yes.

133. From time to time?—I do.

134. Do you think a provision of that sort would tend very much to remove the difficulty of which you complain?—I think it would.

135. *Chairman.*] With regard to the nature of the appeals from the manor courts, do you see any particular deficiencies in the law upon that subject?—Yes, it is very deficient; it is more a means of annoying a fair suitor than it is of any benefit to the appellants.

136. The only appeal from the civil bill jurisdiction of the manor courts is to the judge of assize?—Yes.

137. May it not then often happen that a party may take advantage of that appeal to gain eight months' delay?—No doubt; and I should say in four cases out of five which have ever come across me that is the object.

138. In fact, of the number of appeals lodged, a very small proportion are ever proceeded with?—Very few.

139. Have you ever known the appeal bond to be proceeded upon in case of the non-prosecution of the appeal?—I think I have, but I am not certain; I can only think of one instance; but whether it was proceeded upon, or whether the party merely asked me as to proceeding upon it, I cannot say; I recollect nothing distinctly about it.

140. In the generality of cases, does not the respondent, in an appeal case, compromise the matter with the appellant?—Where it is for delay, or where the sum is small, he is perhaps glad to do it, because the time for hearing the appeal at the assizes is not fixed by any rule; I have known them sometimes tried first, sometimes last; and the parties are obliged to go a considerable distance to the assizes, to take their witnesses there, and if the debt be a matter of 1*l.* or 2*l.*, it is much better for them to lose it.

141. You mentioned that there was an aversion on the part of one seneschal to receive appeals at all; might not that have proceeded in some respect from the bad odour in which appeals are generally held, and in which a good appeal is confounded with bad ones?—No; I should conceive, in that case, he had good reasons from the opposite party to refuse the appeal, because, otherwise, he is always exceedingly willing to receive an appeal; he has a fee of 1*s.* upon every appeal, and I have no doubt it was because he was paid by the opposite party.

142. Is there in general, in the part of the country with which you are acquainted, any difficulty thrown in the way of lodging appeals by the seneschals?—No; they are rather favourable to them, to get the additional shilling.

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143. Have you ever heard of any instances, in your part of the country, of a check being imposed upon the lodging of appeals, by requiring the lodgment of double the costs?—No, never.

144. The Act requires that security should be given for the payment of the debt, and double the costs, in case of an appeal?—Yes.

145. You never have heard that construed so as to require security for the payment of the debt, and the actual lodgment of double costs?—No.

146. What would you be inclined to suggest then as a remedy against vexatious appeals?—It is a very difficult matter to guard against it without placing such difficulties in the way as would perhaps render it almost abortive.

147. Have you ever considered the question of rendering the appeal a more frequent one, and recurring at more brief periods, for instance, giving it to the assistant harrister and a jury at the sessions, instead of to a judge of the assize?—I do not think it would do to give it to the assistant harrister, because I think the courts are too nearly of the same jurisdiction, the same extent of power, and acting in the same place, to give to the one such a preference over the other. If you admit that the seneschal is a man who has a right to decide upon a 20*l.* case, and in some manners they have a much higher jurisdiction, I do not think you could give an appeal satisfactorily to another man, whom you restrict to judging upon precisely the same cases.

148. In the county of Antrim generally, the manor court's jurisdiction goes up to 20*l.*?—Yes.

149. Some few are as low as 10*l.*?—Yes; in fact they were of greater extent and larger jurisdiction as to amount than the quarter sessions, until the last Act.

150. But in counties where the jurisdiction of the manor court does not exceed 40*s.*, or 5*l.* or 6*l.*, your objection to the nature of the jurisdiction would not apply?—No.

151. Mr. Lucas.] Is not the remote period at which the assizes are held a bar to their working well in that respect?—It is decidedly.

152. So that there would be the ready means of a fraudulent defendant fighting off his debt for at least seven months in the year?—Yes. There is one thing which has suggested itself to me, I do not know whether it would be worth acting upon or not, or whether it could be acted upon, but in cases in the manor courts, I should be inclined to say, unless there were a very small majority of the jury, I would allow no appeal. For instance, if you have a jury of 12, if there are seven to five upon the finding, I would allow an appeal, but if there were eight to four, or ten to two, I would give no appeal.

153. Are you for keeping up the number of 12 in the jury?—No, I am not.

154. Chairman.] Do juries decide by majorities in the manor courts?—I have no doubt they do; I have known them do so; that is, if six or seven are of one opinion, and four or five are of another, they will give in on either side.

155. Do you think the provision you suggest is one which can be rendered practically operative without an alteration of the legal notion of a jury in England and Ireland?—I confess there is a difficulty about that, and I premised that when I made the suggestion.

156. Have you considered any other means by which vexatious appeals might be guarded against, with regard to the lodging of any sum or the payment of any sum into court as a security for costs?—It is a hardship to ask a party to pay money into court, more particularly if it is an unjust claim. If the defendant appeals, it is a hardship that he should lodge a sum of money which he thinks he is not legally bound to pay.

157. In the quarter sessions courts is there any additional security required beyond that given in the manor courts, save the affidavit of the appellant's attorney?—No, it is the same; there is the party himself with two bail; it is the same in the manor courts, but with the addition in the quarter sessions of the affidavit of the attorney, that he believes they have probable cause or reasonable ground for success in the appeal.

158. Would there be any advantage, in your opinion, in extending the latter provision to the manor courts?—Yes, where an attorney is employed, but there are so very few cases where an attorney is employed.

159. And it would oblige the party appealing to employ an attorney?—Yes, unless you permitted the party himself to make an affidavit, and that I am afraid

afraid you could scarcely rely upon, because in fact they are not judges of it; they do not know when they have a right to appeal and when they have not. I have practised at the quarter sessions for better than ten years, and I never appealed in my life.

160. Do many persons, not licensed attorneys, practise in the manor courts?—Yes.

161. Of what class are they?—Of course a very low class.

162. Writing clerks?—They are persons without any exact profession or calling, who have a taste, and consider they have a talent, for law and speechifying.

163. For instance, attorneys' clerks who have not been the best conducted persons in the world, who get a smattering of law, they will become the legal advisers of these parties in the manor courts?—Yes.

164. Where there are no manor courts, such persons perform the rough work of filling up processes for parties?—Yes; I know one person who was an attorney's clerk, and he has risen to be registrar of the court.

165. Is not much injury done by the fact of such persons being allowed to act?—Yes, the greatest possible.

166. Might it not be a very useful thing to restrict the power of such persons to practise?—Yes, decidedly, if it could be done.

167. It would be possible to prevent their pleading in court, but you could not prevent them acting as advisers or chamber counsel in private?—Just so.

168. Do you consider it necessary, in the manor courts, that the full number of the jury should be kept up?—I do not.

169. Six has been suggested as a better number by some witnesses; what would you say to that suggestion?—I like very much the Scotch plan, of the verdict being found by a majority; and upon that I was founding the observation which I made before. If you had seven upon the jury, and it required only a majority of that seven to bring in the verdict, then you could restrict your appeals to cases where that majority was not over one.

170. Then, with the provisions of the Scotch law brought into those courts, you consider that seven would be the best number?—I think so; it would facilitate the findings very much; it would prevent juries disagreeing, in being shut up, which we have every day. There would be a majority for one side or the other, and the business would get on without any delay.

171. Does not the law, with regard to the power of summoning jurors, require some additions?—I believe there is no power to summon at present, and, of course, there ought to be such a power.

172. Mr. Maher.] Is not the seneschal bound to provide a jury?—Of course; he cannot try his case without a jury; but then the worst part of the matter comes; because if the jury, even when you have summoned them, do not choose to attend, where does he get his jurors? He gets them out of the parties attending in court, and those parties attending in court are generally the suitors or witnesses in the cases, and very frequently one party is juror for the other.

173. Mr. Mackinnon.] They are not parties nor witnesses in the cases on which they serve as jurors?—Frequently they are witnesses.

174. Our courts of justice adopt that mode of obtaining a jury?—Yes; but it is quite a different class of persons you have upon the jury to what it is in the superior courts.

175. Chairman.] With regard to the amount of pecuniary jurisdiction, do you think the limitation or equalization of that in the different courts would be beneficial?—Surely.

176. You have already mentioned, that in most of the courts of [†] of Antrim the jurisdiction is equal to that in the assistant barrists?—Yes.

177. And in some it only amounts to 10*l*.?—Yes.

178. Are you acquainted with the courts in the county of Down?—I cannot say I am.

179. Are you aware that one court in the county of Down has jurisdiction to the amount of 200*l*.?—Yes; that is at Hillsborough. There is a jurisdiction which the manor courts possess, and which is really a most improper one, in my mind, that is, in cases under 40*s*., of examining the parties upon oath.

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180. What particular harm do you see in that?—I have seen parties get up and swear, one that the debt was due, and the other that it was not due. It leaves it entirely in the hands of the parties, who are among the very lowest of the population. I conceive that the Act of Parliament meant nothing but that if the court and jury thought proper they might examine either of the parties; but it has been acted upon in a very different light; it has been acted upon in this way: that the party suing has a right to go up and demand to be examined. It was my view, and I advised the seneschal of Moylinny that he was not bound to receive the evidence; but if, in the course of the proceeding, the court and the jury saw it was necessary to examine either party, the plaintiff or defendant, they should be at liberty to do so; and the Act of Parliament goes on to say, they shall have the further power of allocating the payment of the decree by instalments, if they please. I take it, that examination was more with a view to see whether the decree should be allocated by instalments or not; but it has been acted upon very differently indeed, for the party is allowed to go up and swear the debt is due.

181. Are the words of the Act similar to those which give the like jurisdiction to the assistant barristers?—No.

182. With regard to the equalization of the jurisdiction, you have nothing further to offer upon that head?—No; I think it ought to be equalized.

183. Are there any parts of the county Antrim which are not in any manorial jurisdiction?—Yes; there is a very large district adjoining Antrim, the barony of Lower Massareene, there is no manor in it. In the older leases there are covenants to attend the courts leet and court baron of the manor, I think, of Killylough, upon part of General Pakenham's estate, and upon the estate of a Mr. Henry, in the same barony; but there has not been any court held there in the memory of any person; there is no record of it.

184. Do the inhabitants of this district complain of the anomaly of their neighbours having the benefit of attending these courts, while they have not?—I have frequently heard parties say it was much better for those who lived in manors, where they could get attachments; they seemed to prefer that, but nothing further. A speedy remedy against the goods is what the lower orders require; it is nothing to them to take a man prisoner; it frequently turns out that it is granting a boon to the opposite party.

185. Then that is a great advantage of itself in the constitution of these courts, the speedy recovery of debts?—Yes.

186. It is a great advantage also, as contrasted with the proceedings of the quarter sessions, is it not?—Yes.

187. You have mentioned the great delay at the quarter sessions?—Yes.

188. To what would you attribute that; to the too great size of the districts, or the infrequency with which the courts are held, or to business of a different kind being mixed up with the small debt jurisdiction?—I think it may be attributed to all those things; I think the districts, in the first place, are too large, decidedly; and I think also that the courts are not sufficiently frequent, nor do I think there is enough time devoted to them; and there is such a multiplicity of business at present imposed upon the assistant barrister, that it is impossible for him to get through it in good time. Look at the registry, the legacy, and replevin cases, which are frequently very tedious.

189. The legacy and the replevin cases are matters of property, and may come within the jurisdiction of the small debt courts; but do you see any advantage in continuing the registry cases in the assistant barrister's jurisdiction, in the manner in which they are at present?—No, I do not; they might be done better in other ways.

190. Is there any advantage which is not counterbalanced by the disadvantage which they cause to the civil bill jurisdiction?—Most undoubtedly, I consider the delay counterbalances any advantage arising from it; I speak of Antrim more particularly; the others must be regulated by the same rules. There is first the registry of the county of Antrim, then the registry of Belfast, and then the registry of Lishurn; and the registry must be gone into before any other business. The consequence of which is, that it is impossible to know when the other business will come on, and a party must enter his case on the first day of the sessions, if he has a civil bill case, before the sitting of the court. Then comes on the registry; you cannot tell when that will end; parties may come up or they may not; and after that, the Act of Parliament, giving jurisdiction in the legacy and replevin

replevin cases, directs that they shall be heard before the civil bills; therefore, they must be gone into next; so that it is totally impossible for the suitor with a common process at the sessions to know within a couple of days when it will come on.

191. Then if the business of the registry were either taken out of the hands of the assistant barrister, or, remaining in his hands, were taken at some other time than the quarter sessions, would it not be a much greater convenience to the suitor?—I am sure it would; I do not see any reason why it should be taken from the assistant barristers; I do not see why they should not do it as well as any other persons, but not at the time at which they are obliged now to do it.

192. Connected with the advantages of the frequent hearing of cases, does not the process of attachment, where properly administered, add much to the convenience of the suitors?—Certainly.

193. Do you conceive that many amendments are requisite to render it properly managed in the different courts of the country?—I do not think many amendments; I think a few would be necessary, but not many.

194. Ought not an affidavit of debt to be made compulsory previous to issuing an attachment?—Decidedly.

195. Do you not think the issuing of either should be kept in the hands of the seneschal himself, or the marshal, or some proper officer?—I think the issuing of the attachment ought to remain in the hands of the seneschal; I would not give it to any other officer.

196. And that the affidavit should be taken before the seneschal?—I should be inclined to authorize competent persons, in different places, to take the affidavits, so that it should not be compulsory upon the parties to go to the seneschal, for they might have to go a considerable distance. If, for instance, the commissioners of affidavits for the superior courts, of which there are a number in the different towns and villages, had the power to take the affidavit of debt, that could be forwarded to the seneschal, upon which he could issue his attachment, filing that affidavit of debt, I think the difficulty would be done away with.

197. The commissioners of affidavits are paid by fees upon the affidavits they take?—They are.

198. Mr. *Maher*.] Do you know whether that fee differs much from the fee the seneschal would receive upon taking the affidavit himself?—The fee the commissioner receives is 1s. 6d.; I do not know what the seneschal charges; I believe it is different in different cases. They seem to lump up the fee upon the affidavit with the other charges they make for an attachment, viz. 12s. 6d., which includes the drawing the affidavit, swearing it, and filing it, which is now done by the seneschal himself.

199. Do you consider that the costs in these attachment cases are fairly proportioned?—I think they are too high.

200. Are you aware there is a great discrepancy between the costs in different courts?—Yes, there seems to be no fixed rule.

201. If that part of the jurisdiction is confirmed, ought not a scale of costs to be annexed to such proceedings, as well as the proceedings in civil bill cases?—Yes; and the proceedings themselves might be, and therefore ought to be, very much simplified. After the attachment is issued, if bail be given in, I would do away with the common law plan of declaration and plea, and all those things, and let a simple civil bill summons be issued.

202. It has been stated to the Committee, that in the court of Augher, in Tyrone, where this process was in use, it commenced as if upon the common law side of the court by attachment; then when bail was put in to that, the rest of the proceedings by civil bill was under the statute?—Yes; I recollect old Williamson, the seneschal of Moylinny, wished to make it appear to the commissioners of inquiry that that was his plan, but it was not.

203. Mr. *Maher*.] I think you have recommended that the rate of fees and the jurisdiction should be equalized in all these courts?—Yes.

204. To what amount would you limit the jurisdiction, considering that your jury is to be reduced to the number of seven?—I think if those courts had a jurisdiction to the amount of 5*l.*, and that jurisdiction were taken from the quarter sessions, so as to make them really inferior courts to the quarter sessions, it might have a very good effect.

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F. W. Maunsley.
20 February 1858.

205. Then you would extend them from being manor courts to be district courts?—Yes.

206. *Chairman.*] Then you would not allow any cases under 5*l.*, except cases in which real property was concerned, such as ejectment, and so on; you would not allow any of the ordinary cases of simple debts, which now can come before the quarter sessions, to come before it?—Not if you keep the two courts in existence. The observations I have been making, are supposing the two courts are to be kept in co-existence.

207. With reference to the division of districts, how would you recommend the Legislature to proceed with regard to districts, not manorial themselves, but contiguous to existing manors, and which might be conveniently annexed to them?—I do not see why the Government should not appoint persons as seneschals as they do barristers, that is, proper persons, in the way I have stated.

208. Suppose a district, not a manor in itself, to be annexed for the purpose of forming a new district to an existing manor where there is a seneschal of the court, would you in that case leave the nomination to the office of seneschal of the new district in the hands of the previous lord of the manor, or would you control it in any way, in consideration of the new district being annexed?—That would depend more or less upon the extent of territorial jurisdiction which would be given to him, because it might be a very small portion.

209. However, in districts where there were no manor courts previously, which were now formed for the purpose of courts of this kind; in that case, would you leave the nomination in the hands of Government?—I would, unless where the entire of the property is in the hands of one person. If it be the estate of one person, I would permit that one person to appoint his seneschal, under the veto I before mentioned, that is, that he should be a proper person, and certified to be such by the judges.

210. *Mr. Meaker.*] Do I understand that you would recommend the seneschals' courts to be kept up under some more proper regulation, and that where they do not exist, distinct courts of nearly the same extent should be created, under the control of the Government, but in all the jurisdiction to be limited to 5*l.*, with a jury of seven persons competent to try the cases?—I cannot say that is entirely my opinion, because I see great difficulty in retaining the same system as far as it goes, and engrafting the other upon it. I should be more of opinion that it would be better, if possible, that the nomination of seneschals to those particular districts should be altogether changed, and there should be persons appointed to convenient districts, not the present, but convenient districts, with the jurisdiction I have mentioned. At the same time, if the business of the quarter sessions could be arranged so as to take up less time than it now does, it would be a superior jurisdiction to any manor court that could be.

211. *Chairman.*] A suggestion was given by Mr. Fogarty with reference to the substitution of a stamp upon some of the proceedings, instead of fees; do you consider that a good suggestion?—I do.

212. Upon what part of the proceedings would you put it?—I would put it upon the original process. My reason for that is, that I know parties very frequently issue a process never intending to go on with it, but merely because it can be issued for so small a sum, and they do it to annoy the opposite party; to get him out of the way and keep him in attendance at the court for a day or two. I would put a stamp upon the process, so that if they did not intend to go on with it there would be some loss out of their own pockets. That stamp might be put on instead of some of the present fees.

Martia, 6^a die Martii, 1838.

MEMBERS PRESENT.

Mr. Bridgeman.
Mr. Lucas.
Mr. Litton.

Captain Meynell
Mr. M. J. O'Connell
Mr. Jephson.

M. J. O'CONNELL, Esq., IN THE CHAIR.

Mr. George Hetherington, called in; and Examined.

213. *Chairman.*] WHERE do you reside?—In Dublin.

214. What profession or business do you follow?—I am not a professional person as yet.

215. Mr. Litton.] Are you an apprentice or articled clerk?—I learned my business of my father; I am agent for a professional gentleman in Dublin, and I conducted my father's business during his lifetime.

216. He was an attorney and solicitor?—He was.

217. I believe he practised a good deal in the manor courts in Dublin?—Yes.

218. In what manor courts?—In the manor of Grange Gorman: one court is held at what is vulgarly termed the "Big-tree," in Dorset-street; and one is held at Kilmainsham, Mr. Finlay is the seneschal of that. Mr. Cole, who holds the court in Dorset-street, has a court also at Kingstown.

219. Is there any other manor besides that of Grange Gorman?—Another manor court is held at Kingstown.

220. *Chairman.*] Did your father ever practise in a court called St. Thomas's, in the "Liberty," or in any of the other courts?—No, not in St. Thomas's; I have represented him at Kilmainsham, he being for the last few years of his life in a delicate state of health.

221. And at Dorset-street, and at Kingstown?—Yes.

222. Mr. Litton.] Did you also represent your father at Carrickfergus, in the county of Antrim?—Yes.

223. You practised there, representing him?—Yes, and at the manor court of Moylinny, which is held at three several places, Doagh, Templepatrick, and Antrim.

224. Where is the court held in those places in the county of Antrim?—In the town of Antrim, it is held in the court-house; in Doagh and Templepatrick, it is held at public-houses, and they are of a very low description.

225. Do you remember any particular case in which the landlord of that public-house was the plaintiff in an action there?—I do; it was the landlord of the house at Templepatrick, in which the court was held; it was a case which struck me so forcibly that I have had occasion to remember it. The court was held in the house of a man of the name of Gawley; I was attending Carrickfergus at that time; I kept an office there for my father, and there was a very respectable farmer committed to the gaol under an attachment issued from the manor court of Ballylinney, the attachment was issued for between 20 *l.* and 23 *l.*

226. Was that the first process that had been issued in the action?—As against him it was; that process issued under an affidavit, which I afterwards saw; he was committed under that attachment for a debt of his father, who died without assets, and without making a will; and there was an affidavit made by the publican in the usual form, that this man was justly and truly indebted to him in that sum, and he was committed.

227. Can you say, of your own knowledge, that the attachment issued from that court to arrest that man, not for a debt of his own, but for a debt of his father?—I can.

228. And that without any proof of assets in his hands?—Yes, upon a mere affidavit of debt. I inquired into the man's case; I went into the gaol to him;

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indeed it was the governor of the gaol who wished me to see him; I said it was quite impossible he could be arrested for a debt of his father, without being executor and having assets; he said it was the case; I was not satisfied with his explanation, and I repaired to the seneschal and read the affidavit; I saw the affidavit was drawn in a wholesale way, which is quite a common thing in that manor court.

229. What do you mean by a wholesale way?—It was an affidavit stating the defendant was justly and truly indebted to the plaintiff in a certain sum of money, and for goods sold and delivered.

230. That was the form of the affidavit?—Yes. The man was very respectable, and he got bail; I gave bail for him, and got him discharged. The proceedings went on in the court, and very expensive proceedings they were; and a day for trial was fixed. From the inquiries I made, and the representations of the defendant, I learned that a fair jury could not be had to try the case, a jury either of intelligence or of honesty; I therefore deemed it better to remove the cause, and I sent to my father to Dublin, and I got a writ of *habeas corpus cum causa*. When that writ came down, a summons issued (a summary proceeding in the court) against the brother of that man, and they proceeded against him for the very same debt, and both cases came on for trial the same day.

231. At that public-house?—Yes. I repaired there accordingly in the morning with the parties, determined of course to remove the first cause, and make a defence upon the second. It was not until half-past 12 o'clock that the seneschal came; and previous to that I found a great number of suitors, witnesses, jurors, and all, sitting in the tap-room drinking away as hard as they could. I then spoke to the parties for whom I was interested, telling them that I did not think anything in the way of justice could be obtained there; however, when the seneschal came, I delivered the writ; he appeared a very stupid old man, upwards of 70 years of age, and he did not at first understand the nature of the writ. The court was held in the tap-room, it was greatly crowded, and I had to use a great deal of argument to induce him to receive the writ; I informed him of the consequence of his disobedience to such a writ; he however persisted, but my argument seemed to prevail very favourably with the people, who set to abusing the seneschal; they called him all sorts of curious names, informed him he had met with his match, and he began then to return the abuse they gave him, nearly in the same language. It was a scene of the most extraordinary nature; I could not conceive for a moment I was in a court of justice, or anything approaching to it; I however succeeded in getting him to take the writ, and he immediately replied he should have the usual fee of 6s. 8d.; I of course paid him; at that time the plaintiff, who was the landlord of the house, came up very drunk, and he abused the seneschal very much for receiving the writ; the seneschal replied to him that he need not be sorry at all about it, that he would do justice, and he should make his house the better for it, and out of the 6s. 8d. he would order as much beer and whiskey. I felt very much surprised. When the beer and whiskey came up, in very great abundance, parties crowded around the seneschal, and he said, "Well, boys, before we empanel the jury to try the cause, I will give you the glorious and immortal memory." We however responded to his toast, and cheered him on; he called to his bailiff then to empanel the jury. I inquired, Would he proceed with the second cause? He said he would. My reason for inquiring was, that the bailiff called among the jury the very plaintiff himself, and the plaintiff insisted upon being upon the jury in his own case, and the seneschal was about to rule it with him. The way they conduct the cases is to try them altogether; they do not return their verdicts in each case, but all at once.

232. Mr. Lucas.] You say they try all the cases together; that is, they do not return one verdict until they return the whole; will you explain what you mean by that?—The jury is empanelled, and a civil bill or an attachment case is called on, and they go into the bearing of that case; when that case is closed they call on another, and so on; and at the close of all the cases the seneschal charges the jury upon all the cases, and the jury bring in their verdict upon all those cases.

233. Mr. Littou.] Do you mean to say, though they do not actually announce their

their verdict, the parties know nothing of the verdict until all the business is closed?—They know nothing of the verdict in any case until all the business is closed.

234. But do they agree upon their verdict at the close of each case?—I cannot say that.

235. Were you present?—Yes; I saw them whispering together sometimes.

236. Do they take a note of each case?—I do not know that they do. In this manor court no note was taken; no one had a pen and ink but the seneschal.

237. Mr. Lucas.] If there were six cases tried in this manor court, and those were all that remained to be tried on that day, would the seneschal, in charging the jury upon the sixth case, charge them also upon the preceding five?—Yes; I have seen that done in other manor courts besides this.

238. Mr. Litton.] Can you say positively that the practice of this manor court was such as you have described?—Yes.

239. That there were several cases tried on that day?—Yes; there were 22.

240. And none of the jury had pen and ink?—None. A great number of them were illiterate persons.

241. Is it your opinion that, from the class of persons upon the jury, many of them could not read or write?—Yes. I knew one or two who expressed beforehand how they would bring in the verdict when the case was called on.

242. Do you remember what day this was?—It was in the month of December 1832.

243. On that particular day there were 22 cases tried?—There were.

244. Captain Meynell.] Do you mean to say that on the day the 22 causes were tried, the seneschal charged the jury upon the whole 22 cases at once?—He did, and a very short charge he made of it.

245. Mr. Litton.] And the jury did not take down in any way, or make any memorandum of the verdict at which they had arrived in each case, as soon as it was concluded?—They did not in my presence. There was one jurymen, he was not the foreman, but he seemed to be a man who had some influence amongst them, and he once or twice interrupted one or other of the jury who asked a question of the witness; he would say, "Never mind, boys, I will read the law to you by and by."

246. They did not then take down in any memorandum, or otherwise, the result at which they had arrived in each particular case?—They did not. They came to try the second case I have alluded to; and I called upon them to take particular notice of what one or two of the witnesses said, who were proving non-assets, and the same jurymen cried out, "Never mind, boys, I will read the law to you." Hearing that expression caused me to look to see whether he had any law-book, but I found it was not so; it was merely some impressions of his own he was going to read to them. I had even to argue with the seneschal upon the law of the case, that the man was not liable if he had no assets; but I found the jury, who seemed to be particular friends of the landlord, was quite prejudiced against us, and interrupting the case as it proceeded.

247. You have said the plaintiff was a public-house keeper, the trial taking place in his own house?—Yes.

248. And you have said he pressed very anxiously to be upon the jury himself in his own cause?—He pressed to be upon the general jury, and one jury tried all the cases. I expostulated upon his being empanelled at all, inasmuch as he would be a juror in his own cause; and it ended by the seneschal ruling with me, that he ought not to be upon the jury; however, perhaps, three-quarters of an hour were spent in the argument amidst great noise. The people in the court had a flegman to direct them on to annoy the seneschal; this man was placed upon two or three forms, and the waving of his hand was a signal for them to attack the seneschal. They cried out "Old Williamson, you have got your match;" and he would reply, "You lie, you scoundrel." The scene was so droll, I certainly made very strong memoranda about it; I, however, felt I could not obtain a verdict in the second case, from the prejudice of the jury. I spoke to my client, and said, it was in vain to go on, from the scene of confusion, and the jury being prejudiced; he immediately replied, "Never mind, work your way, they are only going off; I have given them plenty of beer and whiskey, and there is more coming up." I said, "Your case is as

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honest one without that;" he replied, "I could not do otherwise:" in fact, it was his only resource.

249. Mr. *Jephson*.] Did you see the beer and the whiskey going up to the jury?—I did.

250. Mr. *Littow*.] You mentioned before, that some of the jurors told you, before they went into the box, how they would decide; before they heard the case?—Yes, two of them mentioned it to me; in fact, they were to be witnesses, and I thought they were necessary witnesses. One said, "Never mind examining us, we will get upon the jury;" they said, "John (the bailiff) will empanel us." I said, "I would rather have you as witnesses, for I think you are material witnesses;" but their reply was, "We will be upon the jury, and, right or wrong, there shall not be a verdict against you."

251. And did they find a verdict according to what they said they would do?—They did. The seneschal, however, in charging the jury upon all the cases, as I have stated, charged them very shortly. There was a very peculiar case, as I thought it, tried along with the one in which I was interested; it was a case of charging a man with the price of a horse which turned out not to be as it was warranted; and the seneschal, in that case, charged the jury that the man took the horse "for better, for worse," and that the jury should find accordingly; and that no warranty or anything would do when once he had used the horse. The jury found with the seneschal; and in his charge, in the case I have alluded to, the seneschal stated, that, inasmuch as those young men had retaken the father's place, after his death, from the landlord, they became liable to all his debts.

252. Mr. *Jephson*.] How long ago was that trial?—It was in December 1832.

253. Is that seneschal alive, and acting still?—I believe not; he was a very old man. He and the jurors and all were very drunk; I could hardly escape the beer and whiskey that was pressed upon me.

254. The statement you are making now is respecting the acts of a seneschal who is dead, and who has been replaced by another person?—Yes.

255. Mr. *Littow*.] This process of attachment is sometimes issued against the person, and sometimes against the goods?—It is.

256. Mr. *Jephson*.] Are you aware of the practice of that court at present?—No; I have not been there since 1834.

257. Then you cannot corroborate the statement of Mr. Macaulay, that the seneschal who succeeded Mr. Williamson is a more efficient person, and that he is extremely anxious, and does every thing in his power, to make his court respectable?—Mr. Macaulay must be well aware of the state of the court, for he resides in the neighbourhood.

258. Then you think that his statement is very likely to be correct?—Yes; he must have more knowledge of it than I have, for I have been living in Dublin.

259. Mr. *Littow*.] With respect to this process of attachment, it is the first process which issues?—Yes.

260. The goods are seized as in the nature of a distress?—Yes; you may proceed against the person upon a debt over 20*l.* by the new law, or against the goods for any sum.

261. You mean in that court?—Yes, in all the manor courts that I have known.

262. Have they unlimited jurisdiction?—They have.

263. You have mentioned four or five courts?—Yes.

264. That is the case in all those courts?—It is in Mr. Cole's courts at Grange Gorman and St. Sepulchre's.

265. Now, have you known any instance in which the goods were taken by attachment, and in which the defendant was successful, and yet where some of his goods were never got back?—I do.

266. How did that arise?—I knew one case in which an attachment issued out of Mr. Cole's courts; the goods were taken to a man of the name of Archer, in Dublin, who keeps a store for goods; the defendant gave bail, and of course he got the usual certificate to get back his goods; but he only got back a portion of them, and he could get no account whatever of the remaining part from Archer, and he was obliged to be content with what he did get back. He forwarded up the suit; he obtained a verdict, and was left to his action against Archer for his goods.

goods, which could not be found; and, Archer being a pauper, he abandoned any action against him, and lost his goods.

267. That was the fault of Archer?—Yes.

268. The seneschal had nothing to say to that whatever?—No, the seneschal gave a certificate for the goods to be got back.

269. Did that arise from an attachment against the goods being the first process?—Yes; that was for a debt of 3*l.* 6*s.*

270. *Chairman.*] That was in Mr. Cole's court?—Yes.

271. Do you know where the marshalsea store of Mr. Cole's court is situate?—I heard he had a store, but at this time the goods were removed by desire of the plaintiff to Archer's.

272. He was not the regular marshal of the court?—No; but the regular marshal of the court allowed them to be taken by him.

273. Who was Archer?—A storekeeper in Dublin; he used to receive goods for the late marshal of the city of Dublin, goods seized for rent; that gave him a name; and it probably was the case, when the goods were seized out of the manor court, that they were sent to him, as he had the name of a public storekeeper.

274. But it is not a general custom in the manor court to require that all goods taken under attachment should be given into the custody of the marshal?—No, sometimes they are out on bail.

275. But do they follow the custom of allowing the goods to be given into the custody of other persons?—No; the marshal is the officer who has the custody of the goods; the attachment goes to him.

276. *Mr. Litton.*] And it is his duty to keep the goods?—Yes.

277. The seneschal of course has nothing to say to that?—No; as far as I know, Mr. Cole is a very proper man, and he gives very particular directions to the marshal to keep the goods.

278. Mr. Cole bears a very high character?—Yes; he is very cautious in issuing attachments.

279. And most anxious that the goods should be kept in safe custody by the marshal?—Yes; I have known Mr. Cole, in cases where attachments were applied for, recommend the parties to proceed by summons, and not by attachment.

280. From your experience, which must be considerable, do you not deem it advisable for the ends of justice that the process of attachment against the goods should be put an end to?—It is reckoned a very great hardship; the expense of giving bail is very serious. If a person's goods are seized he may get bail, and they will not be satisfied with the amount; and they will perhaps take everything belonging to him, bed and all, away under the attachment. It is a very severe proceeding, the removal of goods in that way, and the public are anxious to get rid of it.

281. Notwithstanding the best efforts of seneschals, such as Mr. Cole, whom you have described as of the highest character, you have found in your experience that injury and loss sometimes befalls the goods even of a successful defendant?—Yes.

282. But you think, from your observation of Mr. Cole as seneschal, that he has used his best efforts to prevent that evil as far as possible?—Yes, I have known him to do so.

283. And that it is his general object to prevent that evil?—Yes, I am quite satisfied that Mr. Cole, as seneschal, would forego anything he might make by an attachment sooner than the parties should be injured by an oppressive proceeding; I have known him to advise parties to issue a summons, to try the case summarily at once, and forego the attachment.

284. Would that involve a loss of fees to him?—Yes; the proceeding by summons would not cost more than 9*s.*; the cost of an attachment would be 19*s.* 2*d.*

285. I believe there cannot be a man of higher character than Mr. Cole?—No, certainly not; he is a most humane and excellent man. I know in other manor courts attachments are issued, as a matter of course, out of the office; the seneschal knows nothing about it.

286. He is a man in whom the public have perfect confidence?—They have, both as a seneschal and as a magistrate.

287. And he does not suffer attachments to be issued as a matter of course?

—No;

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—No; he has always prevented it as far as he can. If the party insists upon it, he must grant it.

288. He has used his best efforts to put an end to that practice?—He has.

289. Is it the practice to make an affidavit of debt?—Yes.

290. Is that universal?—Yes; they cannot get it without an affidavit swearing to the debt.

291. Mr. *Bridgeman*.] Do they also swear that the person is about to run away?—No; it is merely upon an affidavit of debt, without any allegation in the affidavit of danger from the party running away. Some of the affidavits state that the cause of action has arisen within the jurisdiction, others not.

292. Mr. *Littin*.] Now have you known any other instances in which goods were deteriorated or lost that were taken away under an attachment?—I only know that one case.

293. In other manor courts that you have known, have you observed the same disinclination on the part of the seneschal, and the same discouragement given to issuing attachments as in Mr. Cole's courts?—No; in other manor courts I am aware that attachments are issued from the office of the registrar.

294. Without communicating with the seneschal?—Yes. Perhaps you will allow me to say, as I am acquainted with the fact, that Mr. Cole has given directions to his registrar not to issue attachments without consulting him.

295. What courts have registrars?—All the manor courts of Dublin have registrars; the seneschal can appoint his own registrar, who is the officer of the court.

296. You confine that to the Dublin courts?—Yes.

297. They have all registrars?—Yes, all the Dublin courts. Belfast manor court has also a registrar.

298. And you know that Mr. Cole has given that direction?—Yes.

299. But, with respect to the other manor courts, does the registrar issue attachments as a matter of course?—In the manor court of St. Sepulchre, if I brought him an affidavit swearing that a person in that manor owed me a sum of money, he, upon that affidavit, would seal an attachment and deliver it to his marshal, who would execute it, and the seneschal would know nothing of the proceeding until it came to be tried. That is a highly respectable court too.

300. Is Mr. Ratcliffe the seneschal of that court?—Yes.

301. Where are Mr. Kelly's courts situate?—At St. Thomas's and Donore.

302. Do you practise in Mr. Ratcliffe's courts?—No, there are attorneys enrolled in that court; it is the only court in which attorneys are enrolled; they pay 20*l.* to be enrolled.

303. Are no other attorneys allowed to practise there?—No.

304. Did your father ever practise in that court?—No; but my father has applied for clients to have bail and other things done in that court, and he was obliged to employ an attorney of that court to do it.

305. *Chairman*.] Do you know by what law the seneschal took upon himself not to allow other attorneys to practise there?—No, I do not; I know it is the practice in that one court.

306. Has it ever been disputed?—I do not know; I have known attorneys who were not enrolled in that court bring in counsel, in order to have their clients' cases, when they were defendants, taken care of, when they could not say a word themselves.

307. In that court then counsel are heard as a matter of course, but not attorneys, except those enrolled in the court?—No; counsel are heard everywhere; but no attorney, except he is an attorney of the court, can open his mouth.

308. Mr. *Littin*.] Is that the only court in which there are special attorneys?—Yes; I have never known any other.

309. The only court that other attorneys are excluded from?—Yes.

310. In the other courts of Dublin, may any man not an attorney, or an attorney's apprentice or articled clerk, conduct the proceedings?—Yes.

311. Are you sure of that?—Yes.

312. Are you acquainted with the manor court of Belfast?—Yes, I am intimately acquainted with it.

313. Has it a very large jurisdiction?—Yes, and the seneschal is a highly respectable gentleman.

314. In that court what class of practitioners may practise?—There are attorneys

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nies who practise in it; but there is a class of persons in Belfast called agents, or writers, who are not attorneys, who also practise in that court: they obtain a procurator's licence, which costs 3*l.*, from the Stamp-office, and under that they enter themselves in the court, and are allowed to practise. They issue attachments, and sign their own names to them; they prepare affidavits, signing their own names; and file declarations signed with their own names; they sign declarations even without counsel, and they plead in that court, and there is more done by them in the court than by regular attorneys.

315. With respect to these agents, have they anything in the nature of an apprenticeship, or do they pay the stamp-duty, or anything like a regular licence?—Yes; they pay 3*l.* for a licence, which is called a procurator's licence.

316. To whom do they pay it?—To the Stamp-office. The heading of an attorney's licence is, "Who has not been an attorney for three years," or, "being an attorney, not of three years' standing," or "proctors, procurators," and so on. They therefore take out one of those 3*l.* licences, and enter themselves in this court; there is a sum of money paid to the seneschal for allowing them to practise.

317. Do you know there is a sum of money paid to the seneschal for allowing them to practise?—I do; I cannot remember the exact sum at this moment, but I recollect, just after my father's death, a person introduced me to Mr. Stewart, and wished me to pay him that sum of money and take out a licence.

318. Do you remember about what sum it was?—I think it was somewhere about 10*l.*; I am not quite sure.

319. And is it in the sole power of the seneschal to nominate or refuse to nominate these persons?—I cannot distinctly give an answer to that question.

320. May they be persons without any kind of legal education as attorneys?—Yes; I have known attorneys' clerks, who, having left their employment, took up this as a more profitable thing; very low and very litigious parties.

321. Who had merely acted as attorneys' clerks?—Yes, and who practised in the courts and made money there.

322. Without being either apprentices or artided clerks?—Yes.

323. Then I think your evidence amounts to this: that any man in the community, taking out this 3*l.* procurator's licence, and paying the seneschal such fee as he may demand, may practise in this court at Belfast?—Yes.

324. In point of fact, you have known very low men, who were neither apprentices, artided clerks, nor had any professional education, practise in that court?—Yes.

325. *Chairman.*] What fees do they receive in civil bill cases for attending the court?—I believe 6*s.* 8*d.*

326. Is that charged against the unsuccessful party?—No; they get any sum they agree to receive for defending a person, for making a good defence; if they are for the plaintiff, they get whatever sum is allowed in the bill of costs, which is taxed by the seneschal.

327. You are not aware what the amount of that allowance is, how much the seneschal allows them?—I cannot recollect at this moment; I did not fully prepare myself to be examined to-day. Very low attorneys' clerks I have known to be admitted; there are also persons coming from Lisburn who practise in Belfast, as they are proctors of the Diocesan Court at Lisburn; and under their licence as proctors, I have known them come to Belfast and practise there; and some of those persons there, proctors from Lisburn, are really very curious persons indeed.

Juris, 8^e die Martii, 1838.

MEMBERS PRESENT.

Mr. F. French.
Mr. Litton.
Captain Meynell.

Mr. Lucas.
Mr. M. J. O'Connell.

M. J. O'CONNELL, Esq. IN THE CHAIR.

Mr. George Hetherington, called in; and farther Examined.

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328. *Chairman.*] HAVE you considered the general condition of the juries in the manor courts with which you are acquainted?—I have.

329. Are you aware whether it is generally customary to summon persons to attend those courts as jurors?—In some courts they summon them under the precept of the seneschal; in others, of the registrar, who signs it by order of the court. In other courts, they are merely summoned, like the coroner's jury, from the persons in attendance, who are sitting in the public-houses, where they are held.

330. In the latter cases, have you found that the persons composing the juries differ much from one day to another, or that they were frequently formed of the same persons?—In some of the courts, particularly the court in Kingstown, they are generally the same description of persons: people take amusement generally in being upon those juries.

331. Where the juries are summoned, does your experience inform you whether they are of a class which you consider to be the best qualified to be jurors?—They certainly are not; they are generally publicans, hucksters, and dairy-men, many of them being very illiterate.

332. Do you consider that the class is better in those cases where it is not the practice to summon them?—Indeed I cannot say so; I think they are just of as bad a description. I would state as to the manor court of St. Thomas and Donore, the jurors have been for the last five years nearly the same description of persons, those I have alluded to, publicans, hucksters, and dairy-men; and there, where a man may be summoned for a debt he owes to any person in the manor, whatever defence he may have to the case, either legal or equitable, it would be quite impossible for him to obtain a fair decision upon it from those persons who are upon the jury, and who are interested in keeping up the claims which are made there. I have been present, and known instances of that. At the same time, it is but justice to the seneschal to state, that he has charged the jury in every case (I have heard him) fairly and legally, and he has expressed his astonishment at the decision of the juries.

333. Who is the seneschal?—Mr. Kelly. I have heard Mr. Kelly himself, after the court was up, say there was no use in a man defending himself there before those juries. That is not a court held at a public-house; it is held in the court-house.

334. Do you conceive that the state of the law with regard to the want of power in the seneschal to enforce the attendance of jurors is to be blamed for the improper class of persons who are summoned where summoning is in practice, or for the absence of all summonses where the practice of summoning has grown into disuse?—I should say it was the want of power in the seneschal to enforce the rigid attendance of persons summoned by the marshal or registrar who summon the juries, and who summon them in such a way that a respectable attendance cannot be had.

335. You are aware of the Act which gives the jurisdiction to these courts?—I am.

336. That

336. That Act gives a power to them generally to summon juries within the manor, but it gives them no ready method of enforcing attendance by fine or otherwise?—I believe not. In the superior courts, the mode of empannelling the jury is very much improved by the ballot.

337. In the court which you attended at Ballylinny, was it the practice to summon juries at all?—No; the constable there selected the people in the public-house, some drunk and others sober; after selecting them, he brought them up to the table; he put down their names on a slip of paper, and handed them to the seneschal.

338. Do you conceive that the unsuitness of the persons to serve on those occasions has had a prejudicial effect on the administration of justice in these courts?—I do, clearly; I should say, without a fair, impartial, and intelligent jury, it would be impossible to obtain justice in any case.

339. The want of intelligence is as great an injury to justice as the want of fairness or impartiality?—Yes.

340. Have you ever known a jury under the usual number to be empannelled in one of these courts?—No, I have not.

341. With reference to the manner in which the jury deliver their verdicts, where the courts are held in public-houses, have they generally a sufficient accommodation?—Yes; there is always one room set apart for the court in the public-house.

342. Have the jury sufficient accommodation, separate from the parties and the bye-standers in the court, either when they sit in the court, or in case of retirement?—They are all in one room.

343. While they sit in the court, are they kept distinct from the rest of the people; and in case they retire, have they a place to retire to?—In Mr. Cole's court at Kingstown, and at his court in Dorset-street, where he sits in a public-house, there is a room set apart for the use of the court; there is no other business done there but the business of the court; and the jury sit on one side of the table, to his right, and they are apart from the rest of the people. It is the same in both those courts. Mr. Cole keeps his juries in very good order; but in other courts, where they are held at public-houses, I saw the jury sitting at the table, and the persons interested in the cases all sitting round about them; and I have known them whisper, and speak to them.

344. Then in case the jury retire to consider their verdict, have they had a separate room?—I never knew a jury in the manor courts to retire.

345. Have you ever known the court cleared for their deliberations?—Once I have; it was in Kingstown. The seneschal came out, and left the jury alone.

346. Have you ever heard of the seneschal clearing the court, and remaining with the jury while they were deliberating on their verdict?—No.

347. Have you ever known, in any case, drink to be introduced to the jurors while they were sitting in that capacity?—In the court of Ballylinny I have.

348. While the jury were sitting?—Yes, while the jury were actually trying the cases.

349. Was it introduced at their own cost, or at the cost of the parties?—It was introduced on the occasion I alluded to, first, out of the 6s. 8d. I paid upon the writ of *habeas corpus*; next, there were three persons who were called "new men," who had to pay something for being jurors for the first time. I saw those three persons hand 1s. each for having the honour of being put upon the jury, and the drink came up upon that. No more drink came up until the verdict was found, and then the persons who got the verdicts paid 6d. a-piece in order to treat the jury.

350. Then did the seneschal himself order up the drink out of the fee which you paid him, after he had empannelled the jury?—That was previous to empannelling the jury, after the argument as to his right to refuse the writ.

351. They were not empannelled until afterwards?—No; the landlord came into the room, and wished to be put upon the jury; he was very abusive, and the seneschal said, "Gawley, hold your tongue; I am going to treat you and all here to beer and whiskey out of the 6s. 8d."

352. Are the seneschals with whom you are acquainted, or the greater number of them, men in your opinion properly qualified to fill such an office?

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—I should say some are; Mr. Cole, Mr. Ratcliffe, and Mr. Kelly are gentlemen quite qualified; I should also include Mr. Finley, although he does not hold his court; he rather discourages it. He is chairman of the Kilsmealham court; but he is not anxious to promote litigation, and he sits as little as possible; it was formerly held in a public-house; it is not now.

353. Mr. Littow.] What does he do if a summons is applied for?—It is not very often that a summons is applied for; people go to the quarter sessions more than they do to the manor court.

354. *Chairman.*] Then in general you may say the seneschals in Dublin and its neighbourhood are men in every respect qualified to fill the office?—Indeed I should say so.

355. To the large towns throughout the country with which you are acquainted, does the same observation apply?—No.

356. Belfast for instance; is the seneschal of Belfast a legal man?—He was a practising attorney, and a very respectable one; he is an old gentleman now; he has given up practice 12 or 13 years; he is a very respectable man, and a very fair man; he holds his court in the court-house of Belfast. However, upon examining the documents before this Committee last Session, I find the return he has made there upon the subject of appeals is not a correct one.

357. In what respect?—He says for three years, 1834, 1835, and 1836, there have been but five reversals upon merits. I do not like to say much in contradiction of an official return, but I should say from my own knowledge he is not correct.

358. Are there any other particulars in which you find that return inaccurate?—No; I have known at one assizes 20, 30, nay more, of his decrees reversed upon appeal in a legal point of view, or upon a legal objection, and that has prohibited a great many of those summonses that used to issue in that court. It was the practice in that court to issue a summons against any person residing in the town of Belfast or its neighbourhood, without stating in the summons or process that the cause of action arose within the manor. There were appeals taken upon that ground; and I have known the judge of assize, at the spring assizes of 1834, to allow 40 appeals upon that ground, the processes not stating the jurisdiction. It was said to have been omitted wilfully for the purpose of summoning and carrying on a profitable business in the court; but when the judge of assize stated that was a legal objection, the practice was abandoned.

359. In the country districts generally, what is your observation as to the character of the seneschals as to intellect and fitness for the office?—In some parts of the county of Antrim, there are seneschals who are neither justices of the peace nor legal men, and there is one seneschal I should be inclined to speak in rather strong terms of. He is a contractor for road-making, and he is also seneschal; he is a very arbitrary man; he is not only a contractor, having people under him to make those roads, but an inspector under some of the gentlemen who have taken contracts; in short he is a great man in his own way over poor men; and as seneschal, he distributes law there as he thinks best.

360. Has he an extensive district?—Not very.

361. Has he been long seneschal?—Yes, some time; it is one of those in the gift of the Marquis of Donegal.

362. Is the district over which he presides the estate of Lord Donegal?—It is a great portion of it.

363. Are you aware whether a considerable proportion of the seneschals in the county of Antrim are not magistrates?—There are a great number not magistrates.

364. And some others are not legal persons?—There are some legal persons.

365. Are you acquainted with any rural manor courts in other parts of Ireland?—No; I have applied myself to the north of Ireland and to Dublin; those are the places I am more intimately acquainted with.

366. You cannot then state whether the seneschals are qualified, either by being magistrates or being legal persons, to discharge the duties of their office, generally speaking?—I cannot, of my own knowledge.

367. Do you think a great deal of mischief may arise from persons of a low rank of life and limited information holding such offices?—Yes, I do, I think that

that is the great evil; the lord of the manor having the power to appoint whom he pleases, he is not bound to appoint a legal person; he may appoint any one.

368. You spoke of appeals; are there in general many appeals from the manor courts which you are acquainted with?—Generally a great number. At the manor court of Belfast the number of appeals is very great, and there is a great defect in the mode of appealing; there is no affidavit taken, there is no money lodged; notice of appeal is given as a matter of form, and the appeal is lodged until the assize; so that a party who may obtain a decree in Belfast for an honest and fair debt in the month of September, may be thrown out by an appeal until March.

369. You mentioned, in the civil bill court at quarter sessions, an affidavit such as you have stated must be made by the attorney for the appellant?—It must, at quarter sessions; the attorney who appears upon the civil bill for the defendant must make an affidavit that the appeal is not taken for the purpose of unnecessary delay; and if the party does not appear by attorney, but defends the civil bill himself, or if he is not there to defend it, he may, by lodging the money, with double costs, with the sheriff, obtain an appeal; but in the manor court there is neither one rule nor the other.

370. In the great bulk of cases in the manor courts where attorneys do not practice, do you not conceive the first provision would be inoperative?—I would suggest the parties themselves ought to make an affidavit that they do not issue the appeal for the purpose of delay.

371. Do you think it would be effectual?—They would be bound by their affidavit; they would be liable to an indictment for perjury.

372. Do you not think the other provision would be the better one, that is, lodging the money, or a certain portion of it?—I should say lodging the money, with a certain sum for double costs, for an appeal is attended with double costs, so that would be a security to the party, and would prevent frivolous appeals.

373. Do you really think that the affidavit of the party could be rendered operative to prevent vexatious appeals?—It would always be a question whether the parties had sworn truly or falsely as to the delay, so that it would be very difficult perhaps to ascertain, in the event of an indictment, what was or what was not delay.

374. Then, with regard to lodging the money, supposing an appeal is to be triable at such distant periods as you mention, might not hardship arise to the party against whom the decree was originally obtained, by putting him out of pocket so much money which he lodges in the court for the space of seven or eight months until the next assizes?—It would certainly be a hardship that he should have his money out of pocket all that time, but it is very often the case now that a man is out of pocket his debt for six months.

375. Suppose the law were altered, so as to make the trial of appeals more frequent than at present, would not that in a great measure do away with vexatious appeals by doing away with their object?—Yes, I should say, if they went to the quarter sessions instead of assizes.

376. Would you give your opinion upon this question, whether it ought to be left to the barrister at quarter sessions to decide appeals, or that he should have a jury upon it?—I should say it might be very safely left to the barrister, giving him the power, which he has at present, of empannelling three persons as jurors where he has a doubt himself.

377. Do any seneschals, to your knowledge, throw obstacles in the way of appeals?—I have known Mr. Cole to inquire very minutely into the bail that was tendered. I have known him to interfere where he had some cause; he, being a magistrate, knows the parties who generally become bail in these cases; and I have known him to hesitate, nay, I have known him refuse, to receive an appeal, unless he was satisfied with the bail he got; but I would not go the length of saying there have been any obstacles thrown in the way of appeals. In fact, I think as the law stands the seneschal has not a proper discretion.

378. Mr. Litton.] Do you not think it would be the duty of the seneschal to refuse what is called "stag bail"?—Yes, that is what I mean. I know it is the practice to get low people to become bail for hire.

379. You think it is the duty of the seneschal to watch that and prevent it?—Yes; I have known Mr. Cole do that.

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380. *Chairman.*] That was an obstacle consistent with the duty of the seneschal?—Yes.

381. But suppose the seneschal were to decline to receive an appeal unless it were tendered in the court immediately the decree was pronounced; or suppose the seneschal were to keep out of the way of parties whom he imagined intended to appeal for the purpose of vexatious delay; or supposing he were in any other indirect way to throw obstacles in the way of parties making what he conceived to be appeals of that character, do you conceive that he would violate his duty?—Certainly.

382. With regard to bail on appeals, you consider it was the duty of the seneschal in the case you mentioned to see that it was solvent and good bail?—I do.

383. Have you ever known parties to be sued upon their recognizances with regard to their bail upon appeals?—No; I think it is very difficult to do so.

384. Do you think the law might be altered very beneficially in that respect by allowing the suit to be brought by civil bill at the quarter sessions?—I do; I should say the suit being tried at quarter sessions would be more beneficial to all parties, the poor and the rich.

385. In case the party neglected to prosecute his appeal where it was made for the purpose of delay, supposing an action upon the recognizance might be brought against him in the quarter sessions court summarily, would not that tend to do away with the practice of vexatious appeals?—I should say so; I believe at present the quarter sessions have not that jurisdiction.

386. But supposing that jurisdiction were given to the quarter sessions?—Yes, that would be useful; but where the appeal is not entered, or where it is entered and not acted upon, and the decree of the court below is affirmed, the party generally proceeds upon the affirmation.

387. But suppose the appeal is not proceeded with, where it is made for the purpose of delay, and the party pays the debt before going into court, is not a surety given to prosecute the appeal in such a case?—Yes; the bail-bond is that the parties shall prosecute their appeal; but if it is settled, that puts an end to it.

388. But if a power is given to sue parties upon their bail-bond if they do not prosecute their appeals, and there is proof that it is made for the purpose of delay, might not the party having that power to sue prevent his taking the easy terms he now takes to settle the case?—It might, certainly.

389. Have you known any inconvenience to result from the great distance at which appeals are tried?—Certainly, very often.

390. And from the uncertainty at what period of the assizes appeals would be gone into before the judge?—Yes. Allow me to instance a case: there were at the manor court at Antrim several decisions made by the seneschal, and so improperly made, they were appealed from; the parties, both plaintiff and defendant, were at very great expense, and they only obtained, when they were successful, double the costs of the process below, while for their appeal perhaps they had to give their attorney a guinea, and perhaps in some instances to employ counsel, besides their witnesses' expenses; so that in many cases it would have been better for the defendant, however unjust the decree was, to have paid the debt and costs in Antrim, than to come to Carrickfergus with the appeal. I have known a case from Antrim, where the debt was 2*l.* 4*s.*, the defendant felt himself justified in appealing; and the costs of that appeal were upwards of 11*l.* That is speaking with reference to country cases. Now as to appeals in Dublin, there are great delays there also; I may instance a case tried in the manor court of Dublin, we will say in August; until December, that appeal could not be heard, even in Dublin, at the sittings after November Term, and there can be no costs allowed for that to the party; so that if it is a small debt, a person is injured by appealing.

391. *Mr. Litton.*] About the persons who practise in this court, you gave a description of them, on the last day, in the Belfast manor court; have you made inquiries into that subject since?—I have.

392. Do you know how that is now?—The agents that did practise at the time I referred to, four in number, are all dead now but one, who has practised up to a late period, but from some conduct of his, I understand he has been suspended by Mr. Stewart. In addition to what I said on a former day, as to those persons practising, they not only practised as agents in that court, but they practised

practised also as conveyancers, which gave them a description and character with the persons who employed them. Besides the business they did under the licence they had for practising in that court, signing declarations, and so on, they also drew deeds and conveyances.

393. Do you know who at present practise in that court?—There are two attorneys practising there.

394. And are there any persons who are not attorneys practising at present?—I understand that Mr. Stewart has prohibited it.

395. What is the cost of issuing an attachment against the body or goods?—It was 19s. 2d., it is now reduced to 12s. 6d.

396. Now will you state the particulars of the practice which exists there with relation to insolvents, and the practice of the seneschals when the commissioners of insolvents are about to visit towns on their circuit?—The insolvent commissioners go round the different towns in Ireland three times a year under the Act of Parliament; there are a great number of persons residing in Belfast, and outside Belfast, and in different parts of the country, and they come up to Belfast for the purpose of going into gaol to avail themselves of the insolvent commission. I know that, and can state cases positively to show that people did go then, and I believe go still; at all events they did go to this town, and they inquired when was the seneschal's court. The seneschal always has a court day to meet the time of the commission; he holds his court every three weeks, but he holds one court most convenient for the purpose of summonses being issued and disposed of, and that the parties might be in custody 14 days, so as to file their schedule; I have known instances in which one man has lent another a few pounds; he has summoned him for it; he did not appear; it was proved by a person sitting by, who saw him lend the money, that he had lent it; a decree issued against him, and the man has come down to Carrickfergus with his own decree in his pocket to be committed; he has filed his petition and schedule, and got discharged, and it was a general term among the people there, "that they come there to pay their debts." It was quite a common thing, that two or three days before the fortnight for filing their schedules and petitions, the gaol of Carrickfergus had within it perhaps 40 or 50 of those persons. The gaol was crowded to excess with persons coming in upon what were called these friendly suits. A person was summoned to prove an I. O. U., money lent, and various things, to get a decree against a man; and I knew one of those attorneys, who frequently practised in the court (a Mr. Shannahan, who is now dead), to process people to this manor court in this kind of way. I have known him come down with the defendant whom he had processed, commit him; and I have seen him, in conjunction with an attorney who practised in the insolvent court, get a petition prepared, though he was the attorney for the plaintiff in the manor court, to obtain the decree against the man; he was the attorney for the defendant in committing the man, and he was agent to the man (with the other attorney) for the purpose of getting him through the insolvent commission. Thus, Scotch, English and other creditors who sold goods to these persons, and who had notice by the post, might get them in time to send an order to oppose; but generally they got through the court, and with the adjudication in their pocket they never paid their debts.

397. *Chairman.*] Did you ever know the attention of the commissioners of insolvents called to this?—Yes.

398. And did they interfere with it, or correct it in any way?—I have known the present commissioners look very narrowly into it; and when they have found them in collusion, they have often dismissed the petitions; but I regret to state the former commissioners did not look very closely into it. I knew a case of a very respectable, but a very cunning man, in Belfast, who was one of those agents. He wished to avail himself of the Insolvent Act; he called meetings to arrange with his creditors; pending those meetings, he got himself summoned to this manor court at Belfast; he went down to the gaol under that decree of a friendly creditor; he went in, filed his schedule and petition, being actually in custody; his creditor (who was upon the face of the petition the detaining creditor under that manor court decree), the day after he was gazetted, came down and gave a discharge to the gaoler. He went out, came down to the town of Belfast, called another meeting of his creditors; the creditors knew nothing about his being in custody, seeing him in public; he called another meeting

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meeting of his creditors the day the commissioners were to be at Carrickfergus; he appointed 3 o'clock to meet his creditors; he went down that morning to Carrickfergus, went among the prisoners, and was discharged as an insolvent, being out of custody all the time, except the two days when he filed his schedule.

399. How long ago was that?—That was in 1831.

400. Was he discharged unopposed?—He was.

401. Such a proceeding can only take place in courts where the decree is against the body as well as the goods of the defendant?—Yes; where there is the power in those courts of fixing the goods, I have known persons who have come down to be discharged under those friendly decrees; and when they went down to be discharged, and before their schedule was filled up, another creditor issued an attachment in the same court against the goods, seized the goods, took them into their possession, and saved the goods from being returned in the schedule, and from the assignee; for there is an assignee appointed under the court. The goods were taken in execution under the attachment; they were not returned in the schedule, and could not be claimed by any assignee. All that I conceive to be a very great evil.

402. Mr. Litton.] Is there anything else, with reference to the evidence given before this Committee last session, which you wish to observe upon?—Not at present.

Martis, 13^a die Martii, 1838.

MEMBERS PRESENT.

Mr. Bridgeman.
Mr. French.
The Earl of Hillsborough.
Mr. Jephson.

Mr. Litton.
Mr. Lucas.
Mr. M. J. O'Connell.

MORGAN JOHN O'CONNELL, Esq., IN THE CHAIR.

Mr. George Hetherington, called in; and further Examined.

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403. *Chairman.*] ON looking over your evidence are there any observations you wish to add?—There are some of the numbers I wish to refer to in the evidence given the last day: Question No. 378, was as to bail. You were anxious to ascertain the object of appeal; and as the law at present stands there is no affidavit, and any person may appeal for delay or otherwise, as in the evidence you will find they may throw a party out six months without an affidavit; they appeal for the purpose of delay. In addition to that, I wish to state that I have known many cases in which bail were procured for hire.

404. In the manor courts?—Yes.

405. Was this in the country courts or the courts of Dublin?—Dublin. There is a system there of procuring bail in all criminal and civil causes; there are persons there to be had for payment.

406. Is that an evil which is peculiar to the manor courts, or does it not extend to all the courts of Dublin?—It does to all.

407. It by no means flows from the system peculiarly belonging to the manor courts?—It does apply to all the courts; but there is a more ready way in detecting those persons called stag-bail in the superior courts; the officers in taking bail in the superior courts, the notice of bail must be lodged with them 24 hours; they are in the habit of then referring to their bail-book to ascertain whether the persons proposed have been bail before; whether they have appeared and been rejected; and the officer of the court very often detects them.

408. Is there any similar evil found in the case of appeal from the quarter sessions to the assizes, from the civil bill court?—There must be an affidavit that the appeal it is not taken for the purpose of delay.

409. Suppose a person unprincipled enough to swear an affidavit not consistent with the fact?—The attorney is to swear; and he is amenable to the court.

410. Putting the affidavit out of the question, is the system of bail sufficiently guarded against in the quarter sessions court?—I think in the quarter sessions court it is. The assistant barristers throughout Ireland look very closely into every matter wherein an appeal is tendered; and especially when they have any reason, from having heard a case, to think that there is any object for delay.

411. Do

411. Do they take time to inspect the circumstances of the person who tenders himself?—They do not. The clerk of the peace has more jurisdiction; he is their registrar, and he is generally a person of high character.

412. Does he know the circumstances of all the persons within his jurisdiction who may tender themselves as bail?—He does not, unless there is an opportunity by notice to the opposite party to object.

413. In point of fact, does the opposite party often object?—They do, but they must watch the bail being given; they have no notice.

414. Is there any other part of your last day's evidence you wish to add to or make observations upon?—I stated, in answer to question 384, from yourself, as to whether the appeal to the quarter sessions would be more useful than it is at present to the assizes; you wished to ascertain whether the party could not prosecute their appeal upon recognizance, by suing at the quarter sessions for the amount of the recognizance would be useful in putting down frivolous appeals. I should state, that at present there is no jurisdiction at the quarter sessions as to that. I would suggest, in case you amended the Manor Court Act, that by a warrant of attorney being attached to the recognizance, and a power for the party to enter a judgment in case of the non-prosecution of an appeal or nonpayment, that the party having an opportunity by warrant of attorney of entering such judgment, and proceeding summarily by execution against the bail, would, in a great measure, prevent bad bail, and would also deter persons giving bail where there was not a reasonable cause; it would save the parties from being liable to an offence at the quarter sessions.

415. Is there anything in the other part of your evidence you wish to enlarge upon?—I was asked, in question 390 (the question appears, would there be delay), as to what time an appeal might be tried at the assizes. I think it right now to say, that the judges, of late, have, in the record court, on circuit, gone into appeal cases first, previous to the trying the records, to save the persons the expense of keeping witnesses in town. In the same number I speak of a case at Carrickfergus; an appeal from the Antrim court, wherein it cost the party, the appellant, 11 *l.*, whilst the debt was only 2 *l.* 4 *s.* I wish to give a full explanation of that case, for it was one of very great hardship; and I wish to offer it to show the danger of a manor court of that description existing. These manor courts being open for all litigation, persons are anxious to go to them sooner than go before the assistant barristers; they know, with these bad cases, they would have no chance with the assistant barrister, who is a legal and just man, who, if he had a doubt, would call a jury. They go to the manor courts, where, to use the expression of vulgar people, they say, they can manage matters.

416. Mr. Lucas.] Is there not an appeal from the manor court?—There is.

417. Mr. French.] To the assizes?—Yes, to the assizes; that is the hardship. The case at Antrim was one: I was intimately acquainted with a very respectable farmer there, a very rich man, who was also a married man; was summoned to that court by a woman who kept an improper house in the town of Antrim, whom Mr. Williamson, I told you of, was the senechal; he was processed for 2 *l.* 4 *s.* by this woman, stating it was for board and lodging for another person in the house. He repelled the charge (he was a most correct man), but he was thus processed, because it was thought he would settle the thing sooner than go to court; I attended with him and went to the court; it was quite useless, the senechal began to joke on the matter in a very extraordinary way, and used very extraordinary language towards him, and began to lecture him. As I observed, it was Satan lecturing on sin; however, he read him a very severe lecture, and said he ought to be decreed for more than the amount she sought. The jury would hear nothing; they were all shouting nonsense, noise and laughter prevailed; he was actually decreed; he was so conscious of the injustice and dishonesty of it, that he went voluntarily before a magistrate, and made an affidavit negating every circumstance connected with it. He then took an appeal to the assizes at Carrickfergus; he had to bring witnesses there, his own servants, and every person who could prove a description of *alibi* to the charge brought against him, which could not be heard in the manor court of Antrim; he came to Carrickfergus to employ an attorney and counsel, that was two guineas; he had four witnesses, two days' lodging in the town, and the assize town is very expensive for witnesses; he had these expenses to pay, and coach hire backwards and forwards. I remember the circumstances, for it was I who made up the account, as agent; all his expenses came to 11 *l.*, he cheerfully paid that, and the decree was reversed before Judge Jebb; and he cheerfully paid that 11 *l.* sooner than pay 2 *l.* 4 *s.*

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418. Mr. *Jephson*.] You say the witnesses would not be heard in the manor court when they were tendered?—Yes; they were refused.

418*. By the jury or by the seneschal?—The seneschal.

419. Mr. *French*.] Do you mean to say the decree was given by the jury without the charge being substantiated in any manner by evidence?—They make very short work of charging.

420. Did they not substantiate this demand against him by evidence?—Yes, there was evidence; and I was going to mention, that person was afterwards prosecuted, and sentenced to 12 months' imprisonment for the perjury.

421. But there was evidence that the jury believed?—Yes.

422. He appealed to Carrickfergus, which was a great distance from Antrim?—Yes.

423. And brought his witnesses there, at considerable expense to himself?—Yes.

424. Were the other party able to go to the expense of bringing their witnesses there?—They did.

425. And on hearing the testimony of both parties the judge reversed the decree?—Reversed the decree; he took a long time. Judge Jehh gave every latitude to the parties to meet the case.

426. So then it took Judge Jehh a considerable time before he made his mind up?—Yes, examining every case of the witnesses for the defendant; for a very extraordinary question was raised there, whether he had a right to go further than the evidence given below. It was contended, and very justly, that there was no evidence given below for the defendant, therefore he was not precluded from going into his case there.

427. Did the defendant produce at the manor court the same witnesses, and did he tender there the evidence that he did afterwards at the assizes?—He did.

428. And they refused to receive it?—The seneschal refused.

429. Did he give any reason for so doing?—He treated the case from the description of it quite in a cavalier sort of way, and made use of most extraordinary language.

430. *Chairman*.] Do you wish to add anything more?—I spoke in answer to question 396, of the system, and very great abuse, practised in Belfast about the Insolvent Court; I spoke there as to the seneschal court sitting at a very convenient time for persons to be friendly processed to the court, to go down to the gaol to take the benefit of the Insolvent Act. I stated in that evidence that the parties have gone down themselves with agents and friendly bailiffs, and so on. Now I have considered these matters since, and in the absence of my own books and papers, which I did not think of bringing, I have renewed my memory on the subject; and I have known cases wherein this manor court has begun its sittings one day, and from the great press of business in order to obtain these partial decrees, the court has been obliged to sit for three days, and I have known cases on the third day; and that was the very last day for sending up by the mail the schedules and petitions to be filed in Dublin of these insolvents. I have known, when the seneschal was sitting on that third day, and the decrees making out as fast as possible, that, before the mail would leave the town of Belfast, attorneys who practise in the insolvent court, while the matter was pending, so as to commit from the seneschal court, schedules being filled up in an attorney's office in Belfast—I have known insolvents to sign their schedules, and pay for them to be forwarded by the mail that evening, and yet they have not been committed into actual custody till 10 or 11 at night. I have known it quite the common course at the gaol of the county of Antrim, up to 11 and 12 at night, for persons to be crowding, on the last day, to send to Dublin, to file the schedules, and such schedules gone to Dublin before they were committed, though the Act of Parliament says they must be in actual custody. I wish to say this to show that the manor courts are open to so much fraud, though the seneschal may not know anything whatever of it; and this exists in the town of Belfast to this hour.

431. Mr. *Jephson*.] Does there exist a strong feeling at Belfast against the manor court you have been describing?—Yes, among respectable people.

432. Have they evinced the strength of that feeling by sending forward petitions to the House of Commons to alter or abrogate this?—I am not aware; I have known meetings in the town of Belfast to devise measures, if possible, to put an end to the system.

433. Mr. *French*.] Are you aware there was a petition very numerously signed

signed from Belfast, three sessions ago, in favour of the court?—I am not; I know there is a very strong feeling against the court.

434. The Earl of *Hillsborough*.] What description of persons were they at this meeting?—The first merchants at Belfast.

435. *Chairman*.] Against the whole of the court, or the abuse of the court, as to what you mentioned about the insolvents?—The abuse of the court.

436. Is the feeling you mentioned against the general system of the court, or the one particular abuse you mentioned?—It would apply more as to the principle I have mentioned of the insolvents; there is on an average, I will be under when I say, 150 fraudulent cases every year.

437. Mr. *Jephson*.] Of fraudulent arrests?—Yes.

438. Supposing that abuse to be corrected, should you say there would still exist a general feeling in Belfast against the existence of the court?—I could not go the length to say that; but I know this, that the merchants of Belfast give instructions to their attorneys for processes at the quarter sessions more than to manor courts.

439. You are aware the process requires less expense in the preliminary steps than in manor courts?—Yes, you issue process for 6 d.

440. And in the manor court it requires an outlay of several shillings?—Six shillings and two-pence, I believe; you serve a process for 6 d., and the party has an opportunity of settling the debt before it goes to a hearing; if it goes to a hearing, then it is 5 s. 10 d., the decree and all.

441. However, is there an opportunity of recovering the debts by process?—Four times a year at the quarter sessions, and if you will allow me to say here, if the quarter-sessions' jurisdiction was extended to six times a year, then you would have the manor courts virtually abolished, for the parties would seek recovery of their debts there; they look with great confidence to the assistant barristers.

442. Mr. *Jephson*.] In the return of cases tried during the last year by this court, it appears there were 303 tried, and 450 entered for trial, under what is described civil bill process?—Yes.

443. Does not that show that persons who wish to recover their debts have great recourse to this court?—Belfast has a very large population; and I would say that the merchants of Belfast, I say it unhesitatingly, give directions for processes, and make out lists every three months, and give these lists to attorneys to process these persons. It is a lower description of persons who apply; publicans, &c. who go to the manor court.

444. Persons who require to recover their debts at an earlier period than would be wanted by the merchants?—The merchants do not process persons by suing in that court.

445. Is not one of the great advantages of this court its being held frequently?—It is, for quick recovery.

446. As there are so many attorneys in Belfast, and of course so much intelligence in a town of that size, would not the number of causes entered for trial, and the number of cases tried, and the number of cases of appeal, and the number of reversals of those appeals, be a very fair test of the value of this court?—Respectable attorneys do not practise in that court.

447. As there are so many attorneys in Belfast, and of course so much intelligence in a town of that size, would not the number of causes entered for trial, and the number of cases tried, and the number of cases of appeal, and the number of reversals of those appeals, be a very fair test of the value of this court?—I was about to answer it by stating, there are only two attorneys practising in that court, the other attorneys do not practise in that court.

448. As there are so many attorneys in Belfast, and of course so much intelligence in a town of that size, would not the number of causes entered for trial, and the number of cases tried, and the number of cases of appeal, and the number of reversals of those appeals, be a very fair test of the value of this court?—I should certainly go so far as to say it would.

449. Might not a person who considers himself aggrieved by a decision of this court have recourse to the assistance of any attorney in the town, whether that attorney was an attorney practising in the court or not?—Surely.

450. The *seneschal* of this manor, in a return made to this Committee, has made this answer: "The number of appeals actually tried cannot be ascertained, as a list of those cases is made out by the registrar of the judge of assize, which remains with him, nor can it be stated the number of reversals; but the *seneschal* of this manor is confident that, during the whole three years, there

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have not been more than five reversals on the merits of any decree or dismissal pronounced in the court; have you any reason to believe that that statement of the seneschal is untrue?—As far as he states the merits, I am satisfied it is true; for I think Mr. Stewart above making an incorrect return.

451. That answer, then, goes to this effect, that out of about 1,000 cases tried during the period of three years, to which his return refers, there have been not more than five cases reversed on appeal on merits?—Yes.

452. Does not the question of an appeal being dismissed on the merits involve the question of ignorance of the law on the part of the seneschal, or the misdirection of the jury?—It might occur more from misdirection.

453. What other cases would be dismissed on their merits other than misdirection on the part of the judge, or a description of cases which did not come within his jurisdiction having been tried in the court?—The question of jurisdiction would be purely a legal question.

454. What other description of case would come under the head of being dismissed on merits?—Where there was misdirection, or where the party defending made out on the appeal a good and honest case, it would apply closely to the merits of it.

455. Are you aware of appeals from the assistant barrister's court?—I am.

456. Have appeals from the assistant barrister's decisions ever been reversed on their merits?—Often.

457. Do you suppose, that, taking the 1,000 decisions of an assistant barrister during three years, the number of five reversals on merits would be a very extraordinary number of reversals?—No, I would not say it would be an extraordinary number.

458. Then you do not think this a very extraordinary number of reversals of the decisions of the seneschal in Belfast?—I do not, on merits.

459. *Chairman.* May there be any other cases or decisions reversed upon appeals, not on merits, which still may tend to impeach the accuracy of the seneschal's law or the justice of the decision?—Yes; I say there were a great number of appeals, as I before stated in my last day's evidence, to the judge of assize; and the question of appeal was, that the process issued from the manor court did not set out that the debt accrued within the manor. I want to show that these processes issued at that time, without regarding that matter of jurisdiction, and therefore brought a great deal of business to the court. Since the judge decided that that was necessary to state in the process, Mr. Stewart has given direction that summonses should not be issued unless that was done.

460. Have there been any reversals of decrees on other points of law save that which you have mentioned?—Not that I am aware of.

461. *Mr. Jephson.* The witness has stated that the number of cases tried in this court have lessened since the decision of the judge of assize he has mentioned; is he aware that this does not appear from the returns made to this Committee, inasmuch as 366 were tried in 1834, 339 in 1835, and 392 in 1836?—It ought to be less, certainly, for I have known them to decrease very much.

462. *Chairman.* The manor of Belfast extends over the whole town of Belfast?—It does.

463. Does it extend over the whole Parliamentary borough of Belfast?—I should say it would.

464. Do you know a district of Belfast called Ballymacaret?—Yes; it is in the county of Down.

465. Do you know that district?—Yes.

466. That is to all purposes in the town of Belfast, is it not?—Why, I believe it is, under the Reform Bill.

467. There was a separate manor court for Ballymacaret?—Yes; there is a manor there called the Manor Court of Holywood, it is held in Ballymacaret.

468. Is there not an inconvenience found from the town being divided into these two jurisdictions?—There is inconvenience; the portion of people that live in Ballymacaret are a very litigious sort of persons; they are mostly weavers, and persons whom I should from experience speak in rather strong terms of.

469. *Mr. Litton.* What, against them?—Yes; the manor court is held there; a Mr. Waterson, a respectable attorney, is seneschal of it; and though it is a loss to him, he has used every exertion in his power to virtually abolish the court. He has a son, an attorney, who, though the father is seneschal, and has a good practice in the court, opportunities have been often afforded to issue process in that court, and have the case tried before his father, his father has directed

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directed him in no one instance to issue a process in that court wherein he would be the judge; he holds an office in Belfast, and when persons have come to him to obtain process for that manor court, he has advised them against it, to his own prejudice, and entreated them to take out summonses for the quarter sessions to be held at Newtownards, where they could recover them at a much cheaper rate; he has done this to his own prejudice. He also discontinued in a great measure the issuing of attachments against goods; he is one of those seneschals who are anxious to put down the courts they hold themselves. Mr. Clarke, of Dublin, the seneschal of St. Patrick's Close, has actually closed his court; Mr. Finlay, who has a good district, he has nearly closed his court.

470. Mr. *Jephson*.] What is Mr. Finlay's profession?—A barrister.

471. An assistant barrister?—He is.

472. Then, in closing the seneschal's court, the business would go into the assistant barrister's court?—Yes, but not his; he is a barrister at Kerry.

473. If these courts were abolished generally, following the example of the metropolitan courts, the business would flow at once into the assistant barrister's court?—It would.

474. The Earl of *Hillsborough*.] What is the reason you find so much fault with these weavers; is it that they are more litigious than the people in other parts of the country?—They are very litigious.

475. Are not the farmers very litigious also?—Yes; but that is a district where they are all lawyers.

476. There are a great number of respectable farmers in that part?—Not in the town of Ballymacaree; about the district there are highly respectable farmers.

477. Do the farmers hold more land there than in any other part of the country?—They are highly respectable farmers in that neighbourhood.

478. *Chairman*.] You only mean it to apply to the low population among the weavers of Belfast?—Yes.

479. Mr. *Bridgenow*.] Do you know, of your own knowledge, that decrees have been obtained in manor courts that could not be obtained in courts of law?—Yes, I do, positively; I am quite satisfied persons go to the manor courts with processes, and to prove them there, who would be ashamed to show their faces before the assistant barristers.

480. The Earl of *Hillsborough*.] That is the great use of them, it prevents them going to the assistant barrister's?—Yes; and a stronger reason is the description of the jury. I say persons would go and proceed with a process in one of those manor courts; I do not apply myself to one particularly; they would go there having a greater hope of success than they would before the assistant barrister, who would go with cases they would not bring before the assistant barrister.

481. Mr. *Bridgenow*.] Not having a legal claim?—Yes.

482. Mr. *Littos*.] What were you going to state?—I have known combinations to a very great extent in Belfast; I have known when every trade in the town of Belfast has turned out for wages; they were acting in connexion with the tradesmen in England. There were public-houses; I can speak of one of them; there were public-houses that were opened at the time by the body, and these public-houses had breakfasts and dinners; they drank to any extent, and there were payments on Fridays to the families of those tradesmen who turned out. The town of Belfast was in a frightful state from the system that was carrying on; the men were walking about idle and getting drunk, the police-offices were filled in the morning with assault cases and others; trade was injured. I have known afterwards in the manor court of Belfast these very publicans process the secretaries of the societies for the amount of drink and refreshments afforded them in these houses. In justice to Mr. Stewart I state, that I have heard him in many of these cases charge the juries that this was a most pernicious system—I use his words—and he should look very narrowly into the matter; yet, notwithstanding, I have known juries, many of whom were closely connected with the publicans and tradesmen, return verdicts contrary to his charge.

483. Mr. *Jephson*.] By that, you mean to impugn the system of the juries in this court, and not the seneschal?—Certainly.

484. Mr. *Littos*.] Did you understand that Mr. Stewart's charge was, that these debts were actually illegal contracts?—In some cases he stated they were illegal; he went more to state it was a pernicious system.

485. How would this be illegal; suppose there is a combination in the town, and these combiners go into a public-house and order refreshment, and eat and

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drink there, what defence could they have against an action?—The defence in many cases set up by the secretaries themselves was, that it was tipping; a man would call for some whiskey, some punch, and things of that kind, in small quantities.

486. There is no illegality in that, unless it is Sunday?—Sundays and every day they were at it. I have known the assistant barristers not to make a decree wherever there was a system of drunkenness, or encouragement of the lower orders to be drunk and get tipping.

487. Did Mr. Stewart, in any case, charge that by reason of the illegality of the combination these sums were not recoverable, or was it merely under the Tipping Act?—It was partly under the Tipping Act. He also charged that it was an encouragement to so much drunkenness, and so much vice, by people being crowded in their houses drinking apart from their families; it was a very pernicious system, and he called on the jury to check the evil.

488. *Chairman.*] Have you known actions brought upon election bills in other courts?—Yes.

489. Has that doctrine been laid down by the judges of those courts?—These cases apply very closely to this; they are not recoverable.

490. Was it proved in these cases that the secretaries of the unions or associations, or whatever they were called, had ordered these refreshments from the publicans who processed, and had made themselves responsible for the payment?—Just so. The societies were held in these houses; they issued to different persons tickets; for the return of these cards and tickets they were accountable to the publican.

491. *Mr. Litton.*] Have you ever known actions brought in these courts for illicit whiskey delivered by any individual to others?—No, I have not.

492. On which the duty had not been paid?—No, I have not.

493. Do you know any other cases than those you have described, than tipping, in which the subject-matter of illegal contracts has been the subject of suits, on which there has been a recovery notwithstanding?—Yes, I have known such cases, not applying to the town of Belfast, but speaking as to other manors.

494. Do you know in any other manors cases of that description?—Yes; I have known in a manor court a man to be processed for the amount of a promissory note; that promissory note was passed for the purpose of procuring an *alibi*.

495. Do you mean for the purpose of unjustly procuring perjury?—Yes, unjustly procuring perjury. I have known that promissory note to be sued for, and the handwriting proved; and I have known it contended that the plaintiff was not bound to go further, and that the defendant was bound by it. And I have known it to be relied on in some cases that the proof of the handwriting was sufficient for the value given, and the description of the value; notice was served to prove the value; and the description of value proved was that the bill was discounted, and the cash given to different persons; and I have known decrees in manor courts upon that.

496. Did it distinctly appear to the knowledge of the holders?—Yes; and I have known that reversed on appeal. There was a case very lately in Dublin. A Mr. Armstrong was beaten by combators, and there were 12 men there procured for money to prove an *alibi*, and they did prove the *alibi*, and the men were acquitted. And I know, of my own knowledge, that one of these persons, from the search I have made, one of these persons tried on that day, who got off on the *alibi*, was one of the party at the outrage, and of course there has been a consideration whether they will sue on that or not; I merely state it.

497. *Chairman.*] Do you wish to add anything further?—I would wish, as you seemed the other day to understand a good deal of the matter of attachment against goods. I am prepared to-day to state to you, as to the different courts, and the practice of different courts, the hardship and evil resulting from these attachments, which you seem to have a feeling against. Many of you gentlemen seem to think attachments are not carried on to the alarming extent they are. If these manor courts that are held in Dublin were either amended, and there was an opportunity of going to the quarter sessions in these matters, it would prevent attachments being issued. In one manor court in Dublin attachments are carried on to a great extent; I mean that of St. Sepulchre's; and also a proceeding is followed in that court which is very reprehensible in my opinion. An attachment is issued from the court of St. Sepulchre's against goods. That attachment is procured in this way: the court is not to have discretion, in the first place, to issue an attachment against the goods; they must proceed

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proceed by action against the party, and cause an action to be served; it is never served in that court; the party knows nothing of it, and a return is made by the marshal of that court of *non est*. The attachment could not issue without that return; therefore the marshal of that court actually gives a false return: he gives a return upon that copies of the court, that the party is not to be found within the jurisdiction of the liberty or franchise of the court. The party knows nothing of this; but on that return, on an affidavit of debt, an attachment walks into his house against his goods, and takes them away to the marshal's store until bail is given. The bail, however, in that case, becomes bail for the goods; but there is another court in Dublin where bail is given, the plaintiff may lose altogether.

498. What you complain of is, the false return the marshal makes; is there not say oath taken?—No.

499. Nor does any harm arise to the defendant in the suit more than what arises from the issuing of attachment in other cases without that form?—I should say it was the intention to proceed by serving the man with an action, and giving him four days to pay the debt, or appear to it. He would have an opportunity of appearing; now he gets no opportunity. No action is served on him; but the action issues, and a false return is made on it.

500. In the other court is notice given before the attachment is issued?—No.

501. Then is there any other harm than the common one which pervades all our system of law, of fiction and unmeaning forms of that kind?—But that is a fiction of great hardship.

502. Take the next court in which attachments exist; the city record court, or of St. Thomas?—It issues in the same way there.

503. The fictitious action is there commenced?—It is.

504. In the city record court, you say there is no notice of attachment at all?—No.

505. What hardship is there in one case more than another?—I will tell you how a creditor may be completely ousted in the city record court: there is a feigned action on the return of *non est*; an attachment issues; his goods are taken to the marshal's stores; he procures bail; when bail is given, he turns it into a personal action. It differs from all the other courts. When the persons give bail, they relieve the goods for a time; but their bail-bond says, that they will surrender the party to the marshal of the Marshalsea, of the city marshal, or pay the amount of debt, and such costs as may be awarded. When bail is given, the plaintiff files his declaration; the case comes to trial, and the recorder sits four or five times. There is three months' (in the first place) loss to the party.

506. I do not speak of the hardship of the city record court; but, from the system of feigned actions in the court of St. Sepulchre, what hardship is there further than other manor courts, where attachments issue without notice?—I do not say hardships exist in that court more than others; I say it exists in them all, where attachments of that kind are issued.

507. That hardship arises, not from a fiction of the law, but from the absence of notice that the attachment is going to be issued against?—Yes, and the public are generally against them.

508. The hardship is not confined to St. Sepulchre's, but includes them all?—Yes.

509. Is that fictitious writ and feigned return common to other courts?—The city record court, in Dublin, I have mentioned.

510. Are there other manor courts in which the same form is followed in issuing of attachments?—There are no other manor courts that issue attachments at once without any feigned action.

511. If notice were given of the issuing of such attachments, might not a fraudulent debtor make use of that notice to evade his creditors, supposing attachments to be good things in themselves?—He might remove his goods, certainly.

512. Would not the system you mentioned defeat the very object for which the attachment is framed?—By the removal of the goods, of course; but what I say is, the affidavit merely stating the debt is due, is not enough; it ought to give notice, and say the party is about leaving, or danger is to be apprehended; they are reckoned most objectionable proceedings. In the city record court there is great hardship even to a plaintiff who may have a just debt; then, when

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the recorder comes to try the case three months after, when the jury are about to be sworn, a writ of *habeas corpus cum causa* is issued, the record is stopped; that may be the first Thursday in January, the writ is returnable the next term; the party there has a rule entered to give bail above; the party does not give bail, and a *procedendo* issues; the record goes back, and the court does not sit till July; the party does not appear on the trial, the plaintiff gets a verdict; what does he do? the defendant goes and gets a man-captor; he goes to the city marshal with his bail, and he surrenders, and though the bail relieves the goods, the bail are exonerated from the goods, and a litigious defendant defeats the plaintiff's claim.

513. Mr. *Bridgesman*.] Do you know that these attachments are often obtained by vindictive persons to harass the debtor?—Yes.

514. And are very annoying?—They are.

515. In most cases do you not know it is done for that purpose?—I do, and, without a letter of attorney applying for the debt, attorneys practise in the city courts; I say these attachments are for the purpose of very oppressive proceedings.

516. For annoyance a man gets angry with another, and goes and gets an attachment?—Yes.

Mr. *Maurice Leonard*, called in; and Examined.

Mr. M. Leonard. 517. *Chairman*.] WHERE do you reside?—At Listowel, in the county of Kerry.

518. Are you acquainted with any minor courts in the neighbourhood of your residence?—Yes.

519. What are their names?—The Manor Court of Listowel, the Manor Court of Ballylongford and of Lixnaw.

520. Are all those courts in active operation at present?—Yes.

521. Who is seneschal of Ballylongford?—Mr. William Sandys.

522. A professional gentleman?—A barrister.

523. Can you acquaint the Committee why it is no return has been made by Mr. Sandys to this Committee, to their order of last session, or the renewed order of this present session, on the subject of the proceedings of that court?—No, I cannot.

524. How often does he hold the court?—I believe once in three weeks.

525. Are you aware what is the peculiar jurisdiction of his court?—I think 6*l.* Irish is the limit.

526. Who is the lord of the manor?—It is college property I believe. Mr. Laurence Sandes is the person who appoints the seneschal; it is in his gift; he has a large college property in the neighbourhood; it is called the manor of Carrickfoyle.

527. Have you ever practised in any of those courts?—Yes.

528. In which of them?—Frequently in Listowel. I have been once at Carrickfoyle and the Ballylongford court.

529. As to the jurisdiction, have you seen the returns sent by the seneschal of Listowel?—Yes.

530. It appears the jurisdiction amounts to only 40*s.*?—Yes.

531. Have you seen a return of the places over which the jurisdiction extends?—Yes.

532. Do you know most of the places mentioned in this return?—Almost all.

533. Making allowance for the difficulty of spelling names, and for the change of names since the time of the patent, do you believe them correct?—Substantially correct.

534. Does the manorial district extend over the ancient estates of the Earls of Kerry, the former lords of the manor?—I rather think not.

535. Not over the whole?—No.

536. In the Listowel court it is stated that the most distant place is about four miles; that being so, it is quite impossible it should extend to the limit of Lord Listowel's estates, which run to the borders of the county of Limerick?—I have known an instance of a person being processsed to the manor court of Listowel, who was not within the manor; nor is the name of the farm given in that return of Mr. Fitzgerald's.

537. What

537. What is the name?—Killikilly.

538. This process being pretty well known, do you find that in practice the proceedings of the court are confined to those places mentioned in the patents?—I have often heard persons complain that they have been processsed to that court at Listowel, and objected invariably by saying the place was not within the manor.

539. Have you ever known an appeal to take place on that ground?—Never; I have heard there is a great difficulty in appealing.

540. How does that difficulty arise?—There is an objection, I rather think, on the part of the seneschals to receive it. I have known a seneschal to be processsed for neglect in one case.

541. For neglect in taking appeals?—For refusal to take it, and for informality, if the appeal is lodged.

542. Have you ever known a decree against him on that ground?—No; there is a difficulty in proceeding against the seneschal. We should be prepared to show that he is seneschal; and we never can be prepared, because we cannot get at the copy of the patent. We should show, before bringing it before the court, that he is a seneschal; that we could only show by producing the patent, or an attested copy of it.

543. Mr. Jephson.] Would not the fact of his having tried the cause be sufficient evidence against him?—No. I have with me a civil bill process, which was served on the seneschal at Ballyhighe, and returned at the last Listowel sessions. I was concerned for the plaintiff in that case, and we failed for want of proof: we could not show it was the seneschal.

544. Chairman.] Will you deliver in the process?—[*The Witness does so.*]

545. Mr. Jephson.] Do you mean to state, that the fact of the seneschal having prepared a certain bail-bond, and that bail-bond having been paid for, and turning out to be so incorrectly drawn as to be of no avail, that that was not sufficient proof of his having drawn it, without proving that he was seneschal at the time?—My knowledge arises from this, that I was attorney for the plaintiffs, at the sessions, in that civil bill which I now hand in (*Vide Appendix*). I moved in the case, and I was called upon to show that Mr. Crosby was seneschal.

546. Is he the son of Colonel Crosby?—The son of the late Colonel Crosby; I could not show that, and the process was, consequently, dismissed: the barrister held I was bound to show he was seneschal.

547. Mr. Litton.] Did you offer evidence of his having acted as seneschal?—No, I did not; I was stopped at once.

548. Did you propose to adduce evidence?—No, I do not recollect that I did; you perceive, we served a notice even upon Crosby to produce the bond.

549. Was it produced?—No.

550. Then you were what is called nonsuited?—Yes, dismissed.

551. Chairman.] Who appeared for Mr. Crosby?—I rather think Mr. Supple.

552. He appeared by attorney?—Yes.

553. Was the objection taken by his attorney in the first instance?—At once.

554. The assistant barrister of Kerry is a gentleman tolerably conversant with the law on this subject, is he not?—He is.

555. Is he not himself seneschal of the liberty of Kilmainham?—So I understand.

556. Did he, immediately on the question being raised, decide in favour of it?—At once.

557. Mr. Jephson.] How much had you to pay for the bail-bond so informally drawn, as you say?—I knew nothing of that till the process was handed in to me.

558. Mr. Litton.] Are you sure that the ground on which the assistant barrister dismissed that, was that you did not produce the patent or the letters appointing him seneschal?—Yes, showing him as seneschal.

559. Mr. Jephson.] Can you account for the sum of 8 s. 8 d. having been charged for the bail-bond, as stated in this process?—No; that came to me 18 miles; the man who processsed lives 18 miles from my residence. He came to me in the way of business, and handed me that civil bill; I entered it, and moved on it in the court.

560. Then you were dismissed, in fact, because you had not the evidence that was requisite to prove your own case?—Yes, to show that he was seneschal. If I might mention, if it was an action against a churchwarden, there we would be bound

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bound in the same way to show he was churchwarden; we should produce different papers and the act of vestry to show that he was churchwarden, before we would make him liable.

561. Did you make any inquiries in what respect this appeal-bond was so deficient in form as to fail?—No; but I know from my experience at the assizes that more than one-half of these bonds are informal.

562. In what respect?—In the filling up of them; the parties get no relief in consequence.

563. Are they not generally printed?—Not in the distant manor courts they are not; they are partly printed.

564. Do you believe there is a sinister motive on the part of the seneschal to fill them in badly?—I think it is from inexperience and ignorance; I do not say he does it from corrupt motives at all.

565. If it frequently happens that cases are defeated from want of proper forms, surely the most ignorant person would soon be able to ascertain the proper form, if there were no sinister motive?—They are never present at the assizes when these cases are tried; they do not know in what point the bonds are informal, nor do they wish, in my opinion, to make themselves acquainted with the proper forms.

566. Can you state the description of informality, which is the general cause of these bail-bonds being defeated?—Not entering into the proper securities; the proper sum not being specified in the body of the bond, the sum required by Act of Parliament.

567. Is there a form given by Act of Parliament?—There is; I know, before Serjeant Green, several of these bonds were knocked up; the parties had no appeal in consequence of the informality.

568. Do attorneys practise in this court in which these appeal-bonds are so informally drawn?—I am speaking of a district in which there are five or six manor courts; in this court of Ballyhigh, I rather think no professional gentleman attends there.

569. *Chairman.* Are you acquainted with the reason why the process is for 4*l.*?—It is optional with the attorney, he may go as high as 10*l.*

570. Do you think 4*l.* fairly claimable?—I cannot say what the barrister might give him.

571. What was the amount of the decree against him?—I have not the decree.

572. You know that the jurisdiction of that court is only as to debts of 40*s.*?—I do not know the jurisdiction of Ballyhigh court.

573. Would the damages given in such a case generally include the expense of the journey to a county town, and the support of his witnesses there?—Yes, and for less of time.

574. So that it does not signify what the amount is?—No; with respect to that civil bill, the gentleman who filled that is at this moment in the House. I was speaking to him in the lobby, Mr. Justin Supple.

575. Have you known any other cases of processes against seneschals, which have failed in a similar manner to what you have mentioned?—No; I recollect there was one process against Mr. Fitzgerald, the seneschal of Listowel. I do not know what was the issue of that.

576. Was it on a similar ground?—I have heard so; I have heard that Mr. Freeman, at Kilarney, decreed the seneschal of that manor.

577. On similar grounds to the one you have mentioned?—Yes.

578. Are you aware whether, in that case, the appointment of the seneschal was produced?—No, I am not.

579. But have you ever known appeals made from the decree of the seneschal, on the ground of his having exceeded his jurisdiction?—No.

580. What do you mean by complaints of exceeding jurisdiction, that have not been made? What do you mean by saying no complaints of exceeding jurisdiction have been made since his appointment; do you mean, exceeding the pecuniary amount?—Yes, I mean pecuniary jurisdiction.

581. But as to his local jurisdiction, you have heard of complaints of his having exceeded?—Yes.

582. The places mentioned in the return appear to be the names of townlands?—Farms and townlands.

583. Are there not many sub-denominations belonging to the townlands, though vulgarly or ordinarily called by other names?—Yes, there are.

584. Is

584. Is there ever a doubt whether a particular field, a sub-denomination, belongs to one or another of the townlands?—I do not think there is; when I spoke of the farm of Killihiny, it is at a greater distance from his manor; it is seven miles from his manor of Listowel.

585. That is three miles further than is mentioned in the return as the greatest distance?—Yes, fully three miles; Derryvine is in the barony of Clannorris; Killihiny is in the other barony in the manor of Listowel. It is at Ballybunion, on the sea coast.

586. It would appear the manor of Listowel does not extend much toward Abbeyfeale in an eastern direction?—No, it does not.

587. Then there are large portions about the country of Listowel that appear to be extra manorial?—Yes.

588. Have you ever known complaints made on behalf of the inhabitants of those districts of wanting a speedy means of recovery of small debts, the manor being carried further than the districts that are within it?—I know in doubtful cases they would much sooner have them tried at the manor courts than at the quarter sessions. For instance, suppose a publican brings an action for whiskey sold, he is dismissed at once before the assistant-barrister; he cannot maintain the action; he invariably resorts to the manor court, where he finds relief.

589. Though the seneschal is a person of legal knowledge?—Yes.

590. Is it a leaning on the part of the seneschal, or on the part of the jury?—I rather think in consequence of the encouragement given by the seneschal.

591. Do you find complaints made by persons without the manor, of the want of a speedy recovery of small debts?—No.

592. Do the districts mentioned here of Listowel lie about the town on every side?—No, up and down in the barony; the property of Lord Listowel is in several parts of the barony.

593. Do the districts mentioned in the return from that manor lie generally about the town of Listowel?—They do not.

594. Are any of them altogether detached?—They are.

595. Are they all at present the estate of one proprietor?—I should have the names read before I can state that.

596. You know the fact that the whole of the country, formerly the estate of the Earl of Kerry, is divided among four or five proprietors?—Yes.

597. Looking at the return, can you state whether it is now the estate of one proprietor or more?—One farm belongs to Mr. Bateman, another is the property of Mr. Loch and some tenants of his, another is the property of Mr. Peíros Mahony.

598. Looking at them again, can you say whether they lie together in one place, or whether any of them are detached from the rest?—Some are detached, and some lie together; two or three of these farms bound each other.

599. In the case of those which are detached from the rest of the manor, is there a large interval between them?—

(The witness was requested to look over them, and answer at the next meeting.)

600. Are you aware whether the same lord of the manor of Listowel has not another manor in the western district of the barony of Clannorris?—He has.

601. Is his seneschal there a legal person?—No, a farmer.

602. He has not been very long appointed to preside over that court?—No.

603. Was he appointed by the present or the late lord of the manor?—I rather think the late lord.

604. Was it the late lord also who appointed Mr. Fitzgerald to the court of Listowel?—Yes, it was.

605. How long has Mr. Fitzgerald filled the office?—Since 1829 or 1830.

606. Can you account why it was that the same person appointed in one of his manor courts a legal person and a respectable attorney like Mr. Fitzgerald, and the other a farmer with no professional knowledge?—I rather think that that appointment came through the agent.

607. Who was the appointor?—The late Lord Listowel.

608. You think it came through his agent?—Yes.

609. Are you aware whether much of the manor of Ardferit is the property of the Earl of Listowel?—I am not aware.

610. Where is the court of Listowel held?—It was held, since Mr. Fitzgerald became seneschal, at one time in a public-house, afterwards in his own granary.

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611. His granary was fitted up for the occasion?—No; it is now, where we hold the sessions.

612. In the room in which the sessions are now held, but which previously was used as a granary?—Yes.

613. How long was it held in a public-house?—I cannot exactly say how long, but I know I practised at one court held in a public-house.

614. Where is the court of Leinow held?—I do not know the house.

615. Have you ever practised there?—Never.

616. How far is that from Listowel?—Five or six miles.

Jovis, 15^a die Martii, 1838.

MEMBERS PRESENT.

Mr. Bridgeman.
Mr. M. J. O'Connell.
Mr. French.

Mr. Jephson.
Mr. Lucas.

M. J. O'CONNELL, Esq., IN THE CHAIR.

Mr. Michael Callinan, called in; and Examined.

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617. *Chairman.* ARE you a Solicitor?—I am.

618. Where is your residence?—In Capel-street, Dublin, and at Ennis, in the county of Clare.

619. Do you practise in local business in the county of Clare?—Yes, at quarter sessions.

620. Have you ever been on any occasions engaged in manor courts in the county of Clare?—Not for the last 10 years, I think.

621. Previous to that period you were?—Very little. I never went there, except for some respectable client of mine.

622. Are you acquainted with many manor courts in the neighbourhood in which you reside?—With all of them.

623. State to the Committee in what manner you are acquainted with them; are there appeals coming from their decrees, or suits coming into the quarter sessions courts, or what brings them to your knowledge?—Through appeals chiefly; and also in consequence of suits arising in the quarter sessions court from litigations commenced in the seneschals' courts; through appeals chiefly; and the complaints of the country people of the proceedings in those courts.

624. What are the courts in your neighbourhood; state the names of the manors, the lords of those manors, the persons who exercise the office of seneschal, and where the courts are held?—Lord Egremont has the principal manorial rights in my county; the jurisdiction of his seneschal extends over a very great portion of the county. The Bishop of Killaloe exercises manorial rights there; Mr. Vandeleur, of Kilrush, has manorial rights; Mr. Brady, of Rahoon, and Lord Thomond. There is Mr. Gloster, that has established manorial rights recently, and exercised them.

625. Is that the manor of Castlebank?—Yes.

626. Who is the lord of that manor?—I think Mr. Gloster claims that manor in his own right; it is only recently revived; it has been dormant for a long time; those are, I believe, the principal and only manorial courts in Clare.

627. Who are the seneschals?—A person of the name of Colpoys is the steward of Mr. Vandeleur; Colonel O'Brien is the steward of Lord Egremont; Mr. Roughan is the steward of Lord Thomond; Mr. George Gloster, junior, is the seneschal of the manor of Castlebank; whether he is the steward of his father or not, I do not know; for I do not know which has the patent; Mr. Michael Martin is the seneschal of the Bishop of Killaloe; Mr. John Hewlett is the seneschal of Mr. Brady's manor.

628. Do you know whether Mr. Martin, the seneschal of the Bishop of Killaloe, is a clergyman?—I am quite sure he is not.

629. Is he a magistrate?—He is.

630. Have you seen the evidence given by Mr. Roughan on the subject of manor courts?—I saw a small portion of it; I think I saw one day's examination.

631. You have not seen enough of it to see whether it is generally correct?—I have not. I did not look at it with any attention.

632. There

632. There are several manors belonging to Lord Egremont, are there not?—

Very many.

633. All of those Colonel O'Brien presides at?—He does.

634. Do any of those courts sit in the town of Ennis?—Yes, occasionally Colonel O'Brien sits there.

635. For what manor?—The manor of Clonroad; I believe Clare and Clonroad are united.

636. Is the manor court of Banratty ever held in the town of Banratty?—I believe it is; I am not certain; but I know the seneschals do not confine themselves to holding the court in any particular place; they go from one place to another to hold the courts.

637. Mr. Lucas.] Do they make the change at irregular times, or have they stated times for changing the place?—I am better acquainted with Colonel O'Brien's manner of doing business than that of any other seneschal in the county. He takes to-day at Clare perhaps, and to-morrow at Crusheen, and then another day at another place. I think the courts are held monthly in each manor.

638. Does Colonel O'Brien vary irregularly, and without notice, his places of sitting, or has he fixed times for sitting at the different places?—No; his manner of doing that is, he proclaims at one court where the next court is to be held within that manor; he holds a court next day at Clare; then he says the next court for this manor will be in such a place at such a time.

639. There is no regular fixed place?—No; but there is notice posted in different parts of the manor of the different places for holding the courts.

640. Do you conceive that arrangement to be dictated by a regard to the convenience of the tenants of the manor, or the personal convenience of the seneschal?—I think it is intended for the convenience of the tenants of the manor; for I think the court is the best place to apprise the suitors of the time and place for holding the next court.

641. You do not conceive it is from the personal caprice of the seneschal?—No, I do not; I think it is intended for the convenience of the suitors.

642. Probably you would consider it better that the places for holding the courts should be various, and the times should be fixed?—I think so; I have not a doubt about that.

643. Chairman.] Do you conceive that if it appears on the returns that no regular answer has been made by Colonel O'Brien to a query, requiring the greatest distance from each of the places of holding the manor court, that may have arisen from there being no fixed place for holding the court?—I think it very likely, for he holds it in various places; he sometimes holds a court in the town of Clare, more frequently there than anywhere else; sometimes in the town of Ennis, at other times at Newmarket, and other times at Crusheen; they are all in the manor of Clare and Clonroad, I believe.

644. With regard to the local jurisdiction of those courts, generally are they well defined?—No, not at all, but the contrary.

645. Are they generally in possession of the patents creating those manors, in which the names of the places in the manors are set forth?—The patents are all lodged in the peace office of the county, in which the seneschal exercises his jurisdiction in right of the patent, that is, an attested copy of it; the original patent, of course, is not there.

646. Are there any courts in Clare held by prescription without patent?—None that I have ever heard of, nor do I believe there are any.

647. Are the old names given in the patents always distinctly understood to this day?—By no means; but the contrary.

648. Should you be surprised to hear a seneschal state that he was unable to read his patent, being written in cramped latin?—I have seen a seneschal unable to read his patent before a judge of assize; on being called on to point out a particular place, I have seen him unable to do so.

649. Have you ever known a decree of the seneschal to be reversed on appeal, on the ground that the place where the defendant resided was not within his manor?—That has been upon our circuit, I think, the most constant cause of the reversal of the seneschal's decrees; they have not been in one case almost out of ten able to show jurisdiction when called upon to do so, because the townlands have changed their names since the grant of the patent, and they are now known by different names from those contained in the patent.

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650. Mr. Lucas.] Might it not happen that the seneschal might be perfectly well acquainted with the privileges given under his patent, though he could not read it in law text?—I have not conveyed any meaning exactly; the band-writing I saw him unable to read was not at all in law text, but a fair copy in English character of the patent; he was not able to read it, not being a person sufficiently educated to do so.

651. Was it in the English language?—No, in the Latin language, in the modern English character.

652. Might not a seneschal be wholly ignorant of Latin, and yet be very competent to perform the duties required of him, and acquainted with the limits of his manor?—The seneschal I am speaking of does not read Latin; but I do not think he is competent, for other reasons, for the office.

653. Do you consider his not being able to read or understand his patent in Latin a disqualification?—I think it unfits the particular individual for his situation.

654. You think his being unable to read the patent under which he sits, in consequence of its being in Latin, shows that he is not a fit person to exercise the office of seneschal there?—I do.

655. You are surely aware that many of our old statutes are in Latin?—Yes.

656. Do you think the body of magistrates in Ireland are generally capable of reading those old statutes, and interpreting them, in Latin?—I believe they are all now published in English.

657. They have therefore other means of information?—Yes; I have seen the oldest statutes which exist in the English language.

658. Has the seneschal no other means of informing himself of his duties than by consulting the Latin?—He may get a translation.

659. Is he not obliged to furnish a constat to the clerk of the peace of the county?—He is.

660. Is not that constat in English?—I rather think it must be an attested copy of the patent in the language in which the grant is contained.

661. You have already stated in your evidence, that an abstract of the patent is by law lodged with the clerk of the peace of the county?—Not only an abstract, but a full copy.

662. You are not sure whether that is in English or in Latin?—I cannot say.

663. It may be in English for aught you know?—It may be; but my impression is, that it is not.

664. If it is in English, the seneschal has as much power of knowing his duties from that English copy as he would from the Latin?—Yes.

665. In the court you speak of, are there any privileges different from the usual privileges of manor courts?—In the case I am speaking of I never read the patent myself, but I have heard the seneschal say that his jurisdiction was unlimited in amount; however, I have never seen him exercise jurisdiction beyond the statutory limit, that is 10*l.* Irish; though he claims to have the right, I never knew him to exercise it.

666. Chairman.] What court is that?—It is Lord Egremont's.

667. Mr. Lucas.] Are there not sufficient means in the power of any person of ordinary education of informing himself of the duties of a seneschal of a manor, without having recourse to the patent which is in Latin?—Indeed I do think that persons of ordinary education have the means of ascertaining what are the duties of a seneschal.

668. Mr. Maher.] What are those means he has?—Common intelligence, his reason, and experience.

669. Intelligence from what source?—The course of business; business in general. A very trifling knowledge of law would fit a man for that situation.

670. Chairman.] As far as the names of places are concerned, does it make any practical difference whether they be in Latin or in English, provided the characters can be read; does the putting them into Latin alter their termination or their spelling, so as to make it difficult to ascertain them?—I am not aware that the name of any place in any of the counties near me is written in Latin; on the contrary, I am quite satisfied it is not. The names are chiefly derived from the Irish; they are anglicised, if I may use the expression.

671. Have you ever known a seneschal to complain that the constat lodged in

in the office of the clerk of the peace was not a correct copy of the original patent?—Never.

672. That constat is always considered by the judges as legal evidence of the boundaries of the manor, as far as the same can be ascertained?—In my experience, what the judges require, in the event of an objection being raised to the jurisdiction, is this, they require the seneschal to prove that the assise given as the residence of the parties in the process is contained in the patent; and if the seneschal fails to show that place contained in the grant, then the judge finds the seneschal has no jurisdiction. The boundaries are not delineated in the patent at all; but the patent contains a grant to hold these courts in certain lands named in the patent, naming the townlands, without describing them by boundaries.

673. Mr. Lucas.] The boundaries of those townlands are generally known?—Perfectly, in general.

674. In very many instances, in Ireland, they have been subjected to one public survey?—I do not think there is any well authenticated survey of any part of Clare at present.

675. Chairman.] Are the manors, in general, the estates of the lords of those manors?—I do not think they are; they have retained the manorial rights, but parted with the estate in them, in a great many instances; they are held in fee-farm in a great many instances, by several persons, under the original grantee. All they retain is the manorial rights, and a nominal rent, which is called a fee-farm rent in many instances.

676. Do you know whether the seneschals do or not look at all to the decision of the judges with regard to the question of boundaries?—The question of boundary has never been raised in the county before a judge at all.

677. With respect to jurisdiction, supposing the judge to decide that a certain place was not within the boundary of a particular manor, do you know whether the seneschals at all submit to their decision, or have you known the contrary?—Uniformly the contrary. They take upon themselves to exercise this jurisdiction, knowing the decision of the judge, that they could not establish the jurisdiction.

678. Have the goodness to read Question 5094, and the three questions following that, in the Minutes of the Committee of last Session, with the answers?—*[The Witnesses read the same.]*

679. Do you believe the practice mentioned by one seneschal to be peculiar to him, or common to others?—It is common to all I am acquainted with.

680. Have you ever known that practice proved before a judge of exercising jurisdiction in defiance of a previous judgment of the court?—I do not remember having seen that brought under the observation of the judge; the reason of that is, that probably the attorneys in the cause have forgotten it before the question arises again.

681. In what places are the courts by Colonel O'Brien held?—He holds them in Clare; he holds them in Ennis; he holds them at Cragbrien.

682. In what sort of houses?—In public-houses generally; indeed I think I may say altogether.

683. Does he hold them always in licensed public-houses?—I believe so; but I am not certain of that, for I have not attended those courts for 16 or 17 years.

684. Do they find those public-houses the cheapest places to hold them in?—Yes. They get rooms in those public-houses for holding the court for nothing; for it is an inducement to the spending of money in those houses by persons assembling there.

685. Practically, is there a great deal of money spent on the court-days?—A great deal; there is a good deal of drinking.

686. A court-day is almost as good a day for the publicans as a fair-day, perhaps?—Yes; it is a very good day. Fair-day, court-day, and market-day are good days for the publican.

687. Are the juries generally summoned to attend those courts, or do they attend voluntarily?—The habit is, when the seneschal comes to a town or village where the court is held, he has what is called his bailiff or marshal; he sends this person out, and he requires the attendance of a parcel of people out of the street; they have no regular summons, but attend on this invitation.

688. If summonses were issued, would the seneschal generally have the power to

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to enforce them?—The seneschal has the power to enforce fines, which are to be levied by a sort of roundabout way.

689. In what way?—By a civil bill.

690. Have you ever known that done?—No, never.

691. Is there process of attachment in the courts you are acquainted with?—Not against the person, but there is against the goods; a distringas against the goods; it is termed by some persons distringas, by others distringo.

692. Do you think that those proceedings by distringas are in good or bad repute in the country?—In very bad repute.

693. Do cases of hardship arise?—Cases of gross hardship, and of almost uniform perjury; a distringas, in nine cases out of ten, I have known to be founded on perjury.

694. There is an affidavit required?—There is an affidavit required that the party is about to leave the manor, and that the plaintiff's debt is likely to be lost if it is not granted. I have known this granted where there was no danger of the party leaving, or the debt being lost. When a poor man's property is laid hold of under those distringas, he would rather submit to an arrangement, and pay the money, than litigate it, because he cannot release the distress without getting bail, which may be out of his power in many cases.

695. Even if he does get bail, are the proceedings more expensive than a civil bill proceeding?—Yes.

696. In itself you consider it a bad power, provided it is not properly guarded against. If it were guarded against, by requiring evidence that the party is about to leave the country, and by simplifying the proceedings; if it were, as in some courts in Ireland, that after the goods were bailed, the further proceedings should be by civil bill suit, might it not in some instances be useful?—Yes, I think it might be, if the power were exercised *bona fide* when persons are really about to leave the manor; if it were soundly and discreetly exercised, it would be sometimes useful.

697. Supposing it were required the party should bring evidence before the officer to convince him that there was danger of the loss of the debt by the party leaving?—That would be a great improvement.

698. Do the shopkeepers in the town of Ennis derive advantage from the manor court?—I have not known them to resort to it since the quarter sessions have become frequent; no respectable persons have recourse to it; latterly it is only where persons seek to recover demands that are not fairly due I have known them go there at all.

699. Is the seneschal of this court a man of legal knowledge?—No, but the contrary.

700. Was he a magistrate?—He was.

701. How long is it since he was removed from the commission of the peace?—I should think three or four years.

702. Was it on account of his being a seneschal he was removed from the commission of the peace?—Certainly not.

703. Can you state what the reason was?—By reason of his having taken the benefit of the Insolvent Act. If any person takes the benefit of the Insolvent Act, and the Lord Chancellor's attention is called to the fact, he is removed.

704. Has he, since his discharge under the Insolvent Act, renewed the security he is bound to give under the statute?—I rather think he has not.

705. Do you consider that the seneschal is a person who can exercise a proper control over the juries in his court?—By no means; they are under no control; I have occasionally looked at them when they were at Ennis; I have walked in to amuse myself with their irregularities.

706. Have you been much amused?—Indeed I have, very frequently.

707. Does he ever charge the juries?—Oh, never.

708. Does he always swear a full jury?—Yes, in all cases where the sum sought to be recovered exceeds 5 s. Irish; but in all cases where the sum sought to be recovered is under 5 s. there is no jury at all.

709. He decides that as a sort of court of conscience?—Yes, and on the sole and unsupported testimony of the plaintiff.

710. Is that the practice only at Colonel O'Brien's court?—It is not, for I know Mr. Roughan does the same; I have never been in any other seneschals' courts but those two, except merely, perhaps, for a minute or so.

711. Do

711. Do you know under what authority they claim the power of deciding in this way?—They found it, I believe, on usage; there is no such authority granted to them by their patents; they claim it from its being the custom of their predecessors.

712. Are their decisions ever appealed against?—Very frequently.

713. Have they generally been confirmed on appeal?—I think the decrees of the seneschals are in nine cases out of ten reversed on appeal.

714. Mr. Jephson.] Is that remark general, or does it apply to a particular manor?—It applies to the whole county.

715. If such were the fact, it would appear by the returns, if the returns were correctly given?—Yes; I have no doubt if the returns are correctly given, that fact will appear; those appeals are much fewer in number than they would be if there was a facility of appeal.

716. What difficulty is there in appealing?—The seneschals throw every difficulty they can in the way of lodging appeals.

717. In the manor of Clonroad, Colonel O'Brien returns that the number of cases tried in 1834 were 250; in 1835, 198; and in 1836, 185; that the number of appeals during the years 1835 and 1836 were 21; the number tried, 10, and the number of decrees reversed, 3; how do you make that agree with the statement which you just made, that in nine cases out of ten the decrees are reversed?—In nine cases out of ten, where there is a hearing, they are reversed; and I am perfectly satisfied that is not a correct report; I have seldom seen a decree of this court sustained, except where the appeal was informal, and the decree was then sustained, because the judge had no right to question the proceedings at all.

718. Then your inference is, that the seneschals have stated that which is false to this Committee?—I have no doubt, with regard to the manor of Clonroad, that the return is incorrect; I think it right to state, that I attribute the incorrectness of the seneschal's report to his infirmity, rather than to any design on his part to mislead the Committee; he has had two or three apoplectic fits.

719. Mr. Lucas.] You state that you doubt whether there has been a survey of the county of Clare?—I rather think there has not; it is in progress just now.

720. Did not you mention the seneschal of the court leet of Killone?—No, I did not.

721. Are you acquainted with that district?—I know the locality exceedingly well; but I think that belongs to the manor of Clare; it is within a mile and a half of Clare; that is divided from Mr. Roughan's manor.

722. Are you aware that Clare was surveyed in the Down survey?—I am not.

723. The title of Thomond is the proper title, is it not?—It was Lord Inchiquin.

724. The Earl of Inchiquin was raised to the Marquisate of Thomond?—Yes.

725. The Marquis of Thomond was formerly Earl of Inchiquin?—Yes.

726. Will you look to that record of the forfeited lands granted to the Earl of Inchiquin; does not that appear to be a survey?—It is morally impossible that this could be a survey of the country; because I know those townlands, and their contents are in some cases five times more than they are stated here to be.

727. You were not aware that such a survey as that existed?—No; I am quite certain the barony of Barren was never surveyed; that is Lord Thomond's; my reason for stating that I do not conceive there has been any correct survey, is on account of the inequality of the manner in which the county cess is laid on and collected.

728. Chairman.] You say that in the manor of Clonroad the jury is generally of the full number?—Yes.

729. Have you ever been in a court where there was not a full jury?—Never; I remember a very long time ago, perhaps 10 or 17 years ago, decrees of seneschal's being set aside, on appeal, for not being pronounced by a full jury; and I believe that is the reason why they have since had a full jury.

730. You have not read Mr. Roughan's evidence, in which he stated that he used to empanel five or seven persons on a jury?—No; I was not aware of such a practice.

731. And that his reason for doing so was, because he had seen the resident barrister proceed with a jury of three?—That is always done by consent, when it is done; he must summon 12, if it is required; but sometimes they have preferred having three, it being less difficult to procure three than 12 intelligent persons.

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732. Are the class of persons who attend on those juries respectable?—No; the contrary.

733. Are respectable persons averse to be summoned on those juries?—Decidedly, they would not attend them.

734. Is it generally the practice in these courts for the jury to retire to consider of their verdict?—I think they very seldom do retire, they most generally pronounce their verdict without much hesitation, one way or another.

735. When the court sits in the town of Ennis, is it in a public-house?—No; in the court-house of the town.

736. There they occupy the grand jury box?—Yes.

737. Do they get any refreshment in court?—I never saw it in Ennis; but I am aware that they get it elsewhere.

738. Have you ever seen them sitting in other places?—Yes; I have.

739. Do they often sit in the public-rooms of a public-house?—They sit in what is used as a public-room, when they are not there; but it is cleared out for their purpose while they are sitting.

740. Are they generally kept separate from the by-standers?—No, I think not; people are all round, suitors, witnesses and all, in all directions, and in conversation with them.

741. Have you ever remained any time in one of those courts?—Not for some years back.

742. Do you know whether it is generally their practice to give their verdict on the determination of each case, or to wait until they have a batch of verdicts to give altogether?—I have always seen them give their verdict in the courts I have attended immediately after the close of the case.

743. You have once or twice practised for particular clients, who have been concerned in those courts?—Perhaps three or four times in the course of my life.

744. Do other attorneys of respectability decline practising in them, as well as yourself?—I do not think there is any attorney in our county who does practise in them, except on particular occasions, for respectable clients.

745. Do other persons practise in them?—Yes.

746. What sort of persons?—They are persons who have a mere smattering of education; they can read and write; they have that advantage over their neighbours; they go in and practise there for persons who employ them.

747. Have you ever known the bailiff of the court practise in the court?—I do not believe that they practise as attorneys, but they interfere, and their interference has more weight than it ought to have; if the bailiff says, I know so and so, that goes further in some instances with the jury than the oath of a respectable witness; and they will interfere in that way constantly.

748. The jury are not of that legal class to discover what is evidence and what is not?—They are of the most ordinary class; I dare say half of them cannot read or write; they are altogether illiterate; I have seen jurors that could not speak English.

749. If the evidence is given in Irish, that would be of no consequence?—No; there are a number of persons who do not speak English, who are as intelligent as those who do, certainly.

750. Do the parties give drink to the jury, as a means of procuring their favour?—Yes; it is quite a constant habit to treat the jurors.

751. Do they ever do that while the business is going on?—I recollect once a jury retiring, and only once, in the whole course of my life; and that while they were in the jury-room they got in punch from some of the parties concerned.

752. Did you see that yourself?—Yes; I think it was 14 or 15 years ago I saw it, at Ennistymon.

753. Have you ever heard of a seneschal giving the jury drink at the termination of the business?—Yes, that is quite a constant practice; to encourage them to act with some decency, he tells them if they are good boys he will give them a drink when their work is done.

754. Are the seneschals able to keep order and regularity in their proceedings?—Certainly not.

755. They have no police in attendance?—No; their precepts are quite disregarded; it appeared to me that drink was more frequently given to encourage them not to be contumacious, than anything else.

756. Have you seen any disorderly conduct in the court?—I saw Mr. Whitestone throw

throw an ink-bottle at Mr. Aston Green, who was practising as an attorney before him, which struck him on the forehead.

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757. What was the occasion of that?—Some offence given in his address to the judge.

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758. What resulted?—A great deal of abuse between the gentlemen concerned, and it ended in a bottle of smoke.

759. Of what manor was he seneschal?—He was the predecessor of Colonel O'Brien.

760. Mr. Jephson.] What was his character as a judge?—He was a very good judge when he was sober, but that was very seldom; he was almost constantly drunk; he was a very honest man, and a very intelligent one when he was sober.

761. Chairman.] Has not it been the case, and not seldom, that men who have filled those offices, from seeing the bacchanalian habits of those courts, sometimes imitate them?—I know of only one instance of it in Clare; I think all the other men are men of proper habits, so far as temperance and sobriety are concerned; there is one instance to the contrary.

762. Have you ever seen a seneschal in a state of intoxication in his court?—I never have, except the poor gentleman I have mentioned, Mr. Whitestone; but I have seen a person, now a seneschal, very constantly drunk in the daytime, before dinner; and I understand, and do believe, it is his habit to be so in his court.

763. You mean before you dined?—Yes, and I believe before he had dined; the principal of the gentleman I allude to is endeavouring to remove him in consequence of his habit.

764. Has he the power of doing so?—That is disputed; the seneschal insists he has no power, but I understand that the patentee, upon referring to the appointment of this individual, finds the appointment is made during pleasure, and that he is about to remove him if he can, though the other insists that he has no power to remove him during good behaviour.

765. Intoxication, in your part of the country, is understood not to be inconsistent with good behaviour?—Not for this situation; he insists, that notwithstanding this habit, he is entitled to retain his office.

766. You stated that there was a difficulty thrown in the way of lodging appeals?—It is very great.

767. Is that by the operation of the law itself, or by an abuse of the law on the part of the seneschals?—By an abuse of the law on the part of the seneschals, to avoid the reversal of their decrees.

768. How do they throw this obstacle in the way?—They generally avoid seeing those poor persons who have occasion to lodge appeals; they go out of town immediately after the court is over, and when they go home, and those poor persons have to follow them to their residence, perhaps 10 or 12 miles, and bring their sureties, then probably the seneschal is in the house, and will not be seen. I have been obliged to write repeatedly to them to insist they would accept the appeals for the poor people.

769. Have you known of appeals being carried ready into court for the purpose of being proceeded on immediately?—Yes, they have tendered their sureties in court, for the purpose of avoiding having to follow the seneschal through the country, and my clerk has filled up the appeal, and had it ready.

770. Does your clerk prepare appeals for clients of your own, even though you may not appear for them in the court?—In fact I do not interfere at all in the preparation of those appeals; my clerk does it on his own account; I have nothing to do with it; it is a thing between the suitors and my clerk. They say that the object of preparing this appeal is, that they expect no justice in the first instance, and to avoid being obliged to follow the seneschal through the country from place to place.

771. If seneschals have complained in this Committee of appeals being prepared in that way, is that attributable solely to the difficulties those seneschals throw in the way of their appealing?—I think it is attributable to two causes, one that which I have stated, the other, that persons lodge those appeals very constantly, knowing they ought to pay the money, but in order to get time till the next assizes.

772. If the seneschals did not throw these undue obstacles in the way, do you think the law is faulty from the difficulty of appeal, or that the difficulty lies on the other side of the question?—I do think there is no difficulty in appealing, except those created by the seneschals; and that the facility for appealing

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ing is too great, because there is no obligation put upon the party, at the time of his appealing, except the having to give security for the debt and costs, in the event of the decree being affirmed; and those persons who are decreed, very constantly appeal, in order to get time for paying the money.

773. If appeals could be fairly taken at the manor courts, do you think it would be an improvement to give the trial of them to the assistant harrister at the quarter sessions, instead of the judge at the assize?—It would be a great advantage to all parties, for they would have a decision very soon, and there would not be unfounded appeals lodged; the final decision would follow the original decision so quickly.

774. Mr. Bridgeman.] Are not the persons who sue in those courts, in general persons of bad character?—The plaintiffs are generally considered persons of bad character; it is generally persons who are supposed to have unfounded demands who go there.

775. Chairman.] Has the seneschal a direct interest in the quantity of business in his own court?—Decidedly; his emoluments are derived from that.

776. Do you think, particularly with men who have no knowledge of law, that has the effect of inducing them to encourage suits, which other judges would not encourage the bringing in their courts?—I am quite satisfied they are anxious to increase the business in their courts, in the best way they can.

777. Do you attribute to the same cause the wish to extend the jurisdiction beyond that decided to be their legal limits?—Yes, that is the reason they go on lands never included in their patent, for the purpose, of course, of increasing their business.

778. Mr. Bridgeman.] Without any care whether their decrees are set aside?—Without the least.

779. Mr. Lucas.] Do you say you have known instances of seneschals going out of their legal limits?—Yes; I am perfectly sure of that.

780. Mr. Bridgeman.] Are not those courts called the plaintiffs' courts?—Indeed they are.

781. And is not the opinion of the country that the seneschal's decree in favour of the plaintiff for the purpose of bringing business to their courts?—The general opinion is, that they are more favourable to the plaintiff than to the defendant; that the plaintiff has a better chance of succeeding than the defendant in their courts.

782. Do you know any instances of the ends of justice being defeated by the obtaining a distringas or attachments?—I know the people very constantly submit to impositions in consequence of having their goods distrained under those attachments or distringas; sooner than leave their cattle in pound, or so on, they pass the plaintiff a security, payable at two or three months.

783. Do you know of any instances of men escaping from criminal punishments in consequence of those distringas?—I know an instance of a cow-stealer escaping conviction, in my opinion, entirely by means of a distringas.

784. Have the goodness to state that?—I know a case where a man was indicted for cow-stealing; I was concerned as attorney for the man, and he confessed to me that he stole the cows; I thought this a very extraordinary thing for him to mention; but he said, The fact is so; I asked him why he did so; I said, You are a man that could not be supposed, from your station in the country, and the quantity of land you hold, capable of this sort of thing; I asked him what defence he intended to rely upon; he said, I mean to rely on it, that I took these cattle under a distringas, and that the person whose cattle they were owed me money, and that I took them under a distringas. Had you a distringas? said I. He said, No, but I can procure it; and I shall have it antedated. This was in the time of the gentleman I mentioned, Mr. Whitestone, a good many years ago. He (Whitestone) had two daughters, both of whom are now alive; one the wife of a captain in the army, and the other the wife of a medical man. Those two ladies resided in the town. They were in the habit of signing and selling these distringas as constantly as their father; they put their father's name to the distringas, and received the emolument for it. The morning this man was to be tried for the offence, he procured one of these distringas from one or other of these ladies; and it was pretended on the trial, and evidence given of the fact, that the cows were taken under colour of that, and the man escaped

escaped in consequence; that distringas was signed that very morning only by one of those ladies.

785. *Mr. Lucas.* Did you see the distringas?—I had it in my hand; it was given in evidence for the man.

786. Can you state whether it was ante-dated by one of the ladies, or the prisoner himself?—It was written out and ante-dated by one of the ladies on the morning of the trial. I must say that the seneschal was no party to this at all; it was the act of one or the other of the ladies.

787. *Chairman.* Were you surprised to see that exhibited in court?—I was a little surprised at the contrivance to escape.

788. You considered it rather sharp practice?—I did.

789. *Mr. Bridgeman.* Do you believe that similar things have been done in other cases?—Nothing of that kind has ever come under my observation since.

790. *Chairman.* Does the practice exist still of issuing those attachments by other persons than the seneschal himself?—I know another instance at present prevailing, where the son of the party signs distringas, and issues processes, putting his father's name to them.

791. Is he an officer of the court in any way?—No, he is not.

792. He is a person totally irresponsible?—Yes.

793. Who is the person?—It is Mr. Vandeleur's manor; it is Mr. Colpoys's; I do not doubt that the son himself has latterly been appointed the steward, or seneschal, but he did it previously to his being appointed.

794. In those cases where those attachments were issued, either signed in blank by the seneschal, or signed by other persons in his name, were affidavits required before the issuing of the attachments?—Not in all, in my opinion; and I believe it is the fact, that they do not require affidavits in one case out of five, but merely issue the distringas on being paid, for it is impossible the affidavits could be made in those cases; I do not think they would be so bad as to swear to them, and I believe the seneschals dispense with the affidavits in many cases.

795. What you stated before as to the perjury on the attachments, did not apply to every case?—No; but it very often occurs that to obtain a distringas they make the affidavit; but I believe that the seneschals frequently grant them to persons on their application without affidavit; if there is an application for a distringas by any person in a respectable walk of life, it is granted, I believe, without oath.

796. *Mr. Bridgeman.* Do you know any instance of seneschals refusing a distringas on attachments?—No, I never knew an instance of that. I will mention a case, which appears a very extraordinary one, of a distringas issued last summer. Mr. Bridgeman, who is married to Lady De Burgho, went to the salt water in the course of last summer; Sir John De Burgho, her first husband, in his lifetime, owed some money to a tradesman; the tradesman knew that Mr. Bridgeman was stopping at the sea side; he applied to Colonel O'Brien, and Colonel O'Brien issued a distringas against Mr. Bridgeman for the debt due from the former husband; the consequence was, Mr. Bridgeman's property was laid hold of under distringas; there was a decree pronounced by Colonel O'Brien upon the distringas; Mr. Bridgeman very properly lodged an appeal to the last assizes at Ennis against the decree, contending that he was not within the jurisdiction, not being a tenant of the lord of the manor, being a mere visitor, and the cause of action not having arisen in his own time, or in the manor; his appeal was informally prepared, and, in consequence, that decree stands affirmed. I was the attorney against Mr. Bridgeman; Mr. Bridgeman's appeal was informal; the statute requires there should be two sureties, and Mr. Bridgeman had only one surety, thinking he himself, and one surety, was sufficient for 14 s. That decision must have cost him a couple of pounds; he brought Mr. George Gloucester to attend it. The decree was ultimately affirmed, though he did not reside even in the county, and I believe his carriage was laid hold of under this distringas; that decree was pronounced at the suit of Mr. Maher, a shoemaker, who contended that the late Sir John De Burgho owed him 14 s. for shoes.

797. Where those attachments are issued in this irregular manner, may not cases arise in which the ends of justice are defeated, though not so glaringly as in that you have mentioned?—Yes, I am aware that such cases do arise; it is

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quite a constant practice with those people, when they obtain an attachment, to run away with the goods of the defendant without obtaining a decree, and sell them the next day; then the person whose stock is removed is left to his action against, in all likelihood, a heggarman; that is sometimes done with respectable persons.

798. It has been stated that these attachments are granted for the benefit of the people; do you consider that course to be justifiable?—I conceive that if there are sufficient materials laid before the seneschal to warrant him to issue the attachment, he is irresponsible for the use which is made of it. The reason I consider he is irresponsible for the use of it is, that he is bound to issue his warrant to his own bailiff, which he does generally, and the bailiff is responsible for his own acts; but the seneschal is not responsible for the bailiff's acts; the bailiff is bound to give security to the extent of 50 l. at the time of his appointment, for the due execution of his office, but his sureties are generally men of straw, not worth a penny.

799. Is the practice of giving the execution of those attachments to a special bailiff consistent with the law?—I conceive it is contrary to the law.

800. Is it the habit?—It is quite the habit; they generally name their own bailiff, that is what is called a marshal, then they add another name, and the other is the person generally employed by the plaintiff to execute the process, and the only person. When those persons get these distringas, or decrees, and though there are appeals lodged in court to stop the execution, they will go on to sell; and though there is an appeal lodged against the decree, they disregard it altogether.

801. *Mr. Lucas.* Is your opinion unfavourable to frequent courts for the recovery of small debts generally, or are your objections confined simply to the practice you have seen in the manor courts you have described?—To the practice. I think the court of quarter sessions is quite sufficient for the purposes of the people of the country; that the business is better done in those courts; and that it is better for the people not to have more means of litigation than the quarter sessions afford.

802. You think that four times a year, being the periods at which the quarter sessions are held, is sufficient for the recovery of small debts?—Yes, I do.

803. Do you think that for the recovery of small debts it is desirable that the intervention of a jury should be employed, or that a respectable judge is sufficient without a jury?—I would much prefer, and I think it would be more beneficial, to have the decision of an intelligent judge than a jury.

804. An intelligent individual, such as assistant barristers commonly are?—Yes, I would much rather leave the case of a client of mine with an assistant barrister, than with the kind of juries who can be procured at those places.

805. Are the juries procured at quarter sessions superior to those procured at manor courts?—Exceedingly so; that is, for crown business; but there is not a jury summoned for civil half business.

806. Suppose these courts were abolished, and the recovery of small debts committed to the assistant barrister, would you recommend the intervention of a jury, or not?—I think the present system would work better, to leave the assistant barrister the discretion he now has to empanel a jury, where he has a doubt of the state of facts; but in ordinary cases, where he has no doubt upon his own mind of the state of facts, I should rather have his decision without the intervention of a jury; I think it would be more beneficial; the decisions of the assistant barristers, where they act upon their own judgment, are much more frequently sustained on appeals than where the decision is that of a jury.

807. The power of the assistant barrister to summon a jury, at present, is confined to directing them to try a particular issue, in the same way as the superior court does?—Entirely; the barrister may dispense with a jury altogether if he pleases, or he may call upon a jury to assist him in his decision.

808. You think that is the best footing on which it could be left?—I do, decidedly.

809. Is the county of Clare one in which the farms are very much subdivided?—Part of it; not all of it.

810. Is the population considerable?—Very.

811. Can

811. Can you say, on the average, what is the extent of the farms?—No; I do not think it is possible to say that, they vary so much in their extent; the population is very considerable, especially on the sea-coast.

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812. Are the transactions of the county, the farming transactions, numerous?—Yes.

813. Do you think that four times in the year is a sufficient number of periods for the trial of those various transactions?—I do; quite sufficient.

814. You think there is no danger of mischief occurring by a person being defrauded of his just debt?—No, I do not think there is; for if their transactions be not for ready money, three months is the longest time which can intervene until it can be enforced; the time cannot be much less than three months, that they would give to one another; it might be a three months' transaction, or a 91 days' transaction, and it usually is so, unless it be a ready money transaction.

815. Would you give an appeal from the quarter sessions to any other court?—Yes, to the judge of assize, by all means.

816. Is not that an expensive proceeding?—It is double the expense of the proceeding below.

817. Those manor courts are usually confined in their pecuniary jurisdiction to 40s., are they not?—The amount is 10*l.* throughout our county; that is, 10*l.* of the late Irish currency.

818. Your opinion appears to be decidedly, that you would prefer the abolition of the manor courts, and the substitution of the quarter sessions court, with an appeal to the judge of assize, rather than the continuance of the manor courts, however well they might be constituted, with an appeal to the assistant barrister?—I would prefer that; I think it would be more beneficial to the country to abolish the seneschals' courts altogether; that the court of quarter sessions is quite sufficient for the purposes of the country.

819. You think no improvement that could be made in the seneschal courts, with an appeal to the quarter sessions court, could make them so beneficial as the mode you propose?—I think not.

820. *Chairman.*] How often are the quarter sessions held in the county of Clare?—The county is divided into four divisions, the division of Ennis, Ennistymon, Kilrush and Tulla, and in each of those places, or within those divisions, the sessions are held four times; there are 16 quarter sessions in the county; sessions are held in 16 places in the year.

821. In the division of Ennis, at what times are the sessions held?—They are held in Ennis in April and October, and in Six-mile-Bridge, for the same division, in June and January.

822. How often in Ennistymon?—In Ennistymon division they are held four times in the town of Ennistymon.

823. In Kilrush division?—In Kilrush division they are held four times in Kilrush.

824. In Tulla division?—Twice in Killaloe, and twice in Tulla.

825. That is a very great improvement on the old division of the county, is it not?—I think it is; justice is brought home to the men's doors.

Martis, 20^a die Martii, 1838.

MEMBERS PRESENT.

Mr. Bridgeman.
Mr. Litton.
Mr. Lucas.

Mr. Maher.
Mr. M. J. O'Connell.
Mr. Redington.

MORGAN JOHN O'CONNELL, Esq., IN THE CHAIR.

Mr. Maurice Leonard, called in; and Examined.

Mr. M. Leonard,
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826. *Chairman.*] YOU were requested on your former examination, Mr. Leonard, to examine the names of the places returned by the seneschal of Listowel, as being within that manor, and to state to the Committee, from your knowledge of the country, whether such districts lay together, or whether any of them were detached from the rest?—Some are detached, and some lie together; some are in the barony of Irrachicounor, and some are in Clannaurice.

827. As to those farms that are detached from the rest, are there large intervening districts between them, and what I may call the body of the manor?—There are.

828. To the distance of a mile or two, in any case?—Yes.

829. Are there districts lying quite contiguous to the town of Listowel, which are not mentioned in the returns of the seneschals?—There are, which I do not see returned.

830. As to the property of the Knight of Kerry, which comes close to the town, is any part of that within the manor of Listowel?—I do not see it in the return which Mr. Fitzgerald has sent in.

831. As to the property of Mr. Elliot lying near the town, is any of that mentioned?—None. The property of Mr. David Mahony lies near the town; Riversdale is not mentioned; the property of Mr. James Raymond, of Dromine, is not mentioned.

832. Are you aware whether the fact of these places not being mentioned in the return, in practice deprives the inhabitants of them of the benefit of the manor court?—Yes, if they wished to resort to the manor courts; but having the sessions four times a year in Listowel, they have sufficient facility of obtaining justice without resorting there.

833. Are you aware whether, in point of practice, the inhabitants of these places are excluded from the jurisdiction of the court?—I rather think they are excluded.

834. Are persons living in those places out of the seneschal's jurisdiction ever processed to the court?—I have heard them complain, frequently, that they were; and have already mentioned myself that they were processed to Mr. Fitzgerald's court, and that they did not reside within the manor.

835. Do the people there, generally, know the bounds of the manor?—I rather think they are quite ignorant.

836. You state, they said to you they did not reside within the manor; do you mean they meant that as conjecture, or a matter of certainty?—It was more a matter of conjecture than certainty, I should suppose; and I am now quite convinced, by seeing this return, that these objections were well founded.

837. Even though parties did not reside within the manor, a cause of action arising within it, for instance, in the market of Listowel, might bring the parties within the jurisdiction of the court?—I rather think it ought not to bring them within the jurisdiction of the court, if they reside at a place not within the manor.

838. Have

838. Have you perused the Act of the 25 Geo. 3, commonly called the Manor Court Act?—Yes. Mr. M. Leonard.

839. Do you remember there a requisite being stated for such proceedings, that the cause of action should arise within the manor?—Yes. 20 March 1838.

840. Do you recollect any other being stated?—That the jurors should be summoned from within the manor.

841. Would you have said that persons being brought to the court refers as much to jurors as to suitors?—Yes, it does to both, in my opinion.

842. Supposing the jury and everything else to be constituted according to law, is there anything to prevent the suitors coming into the court, because one or both may not reside within the manor, when the transaction in question arises within the manor?—I am not aware of any instance myself where the cause of action arose within the manor, and the party resided out of the manor, that he was summoned or processed to that court.

843. Though jurors may have been brought from beyond the manor, you are not aware of any suitor being brought from beyond it?—Yes; in my former evidence I mentioned a man who resided seven miles from Listowel, whose farm is not within the manor, and he was processed to Mr. Fitzgerald's court.

844. Are you aware when the cause of action arises outside the manor they are summoned to the court?—Yes.

845. Do not, in point of fact, small debt transactions often occur among the inhabitants in the neighbourhood of the market of Listowel?—Frequently.

846. In those cases it cannot be considered questionable that parties may be summoned to the court?—I know no instance, nor do I think Mr. Fitzgerald has power to summon a person to his court, because the cause of action arose within the town.

847. Supposing a defendant residing with the manor processed by a plaintiff who resided without it, and the cause of action arising within the manor, in that case would he not have jurisdiction to enforce his authority?—Certainly.

848. In case of the defendant residing without the manor, if injury is caused to the party, would it not arise more from the inefficacy of the law than the illegality of the proceedings?—I think Mr. Fitzgerald ought to be strictly confined to the farms within the manor mentioned in the patent, and that he has no jurisdiction outside of these.

849. Now, with regard to the jurors; you have stated that persons are never summoned regularly to this court at Listowel?—I never knew an instance, but I have invariably seen the bailiff go into the streets, and call on the first person he met, and those always the very lowest and worst characters, with some exceptions.

850. Is the court held irregularly every Tuesday?—It is very irregularly held; I have known several adjournments.

851. Has it ever been held on any other day of the week but Tuesday?—No, I believe not.

852. You stated they were a low class, generally?—Yes.

853. Are persons in the habit of coming frequently to the court to act as jurors?—I understand when a party is processed, or is plaintiff, he frequently goes about to his friends, and requests their attendance.

854. Do you understand that from common rumour, or from your own knowledge in any particular instance?—Common rumour; I have heard it spoken of over and over again by parties; and I have heard parties defeated say that certain persons being on the jury they could not expect a fair trial.

855. Do you not consider that practice very demoralizing?—Unquestionably.

856. If there was a power of summoning proper jurors, are there not, within the manors both of Listowel and Lixnaw, farmers and persons of respectability and intelligence fit to act as jurors?—I am certain there are; I am certain it is great neglect on the part of Mr. Fitzgerald not to enforce the summons if he has the power.

857. You think he has actual power?—I heard him say on one occasion in his court he had the power, and would enforce it; I never knew him to carry that threat into execution.

858. Do you think it anything more than a threat?—I believe he was serious at the time, it was immediately after his appointment.

Mr. M. Leonard.

20 March 1838.

859. Are you at a loss for respectable jurors at the quarter sessions at Listowel?—We have a very excellent attendance; I think our attendance of the grand jury at the quarter sessions very respectable.

860. That is scarcely a fair test of the country jurors; are your petty jurors pretty good, making allowance for the inexperience of many persons who attend?—I have no occasion to complain of them.

861. Is there an illiterate class of persons on these juries?—Yes, very much so, in the manor courts.

862. Can you state any particular instances in Listowel, or any other court?—From the manner in which the juries are constituted in Listowel, I, as a professional man, have the greatest objection to enter the court, and I demand a much larger fee for my attendance than I am authorized by the Act. That is done more for the purpose to avoid practising in the court. I have seen some of the jurors drunk in that court.

863. Were they so intoxicated as not to know what they were about, or merely elevated?—They were drunk; the very moment I entered the court and looked at the jury, I saw one or two were drunk.

864. Have you ever heard it said, that those persons who solicit the attendance of their friends, remunerate them for their attendance by an extra glass?—It is the general opinion.

865. In the court of Ballylongford, do you know of any instances of illiterate jurors?—Yes; I recollect that upon the trial of a civil bill, before Mr. Freeman, at the quarter sessions at Trillick, there was a witness under examination, and he stated that he could not speak the English language, nor did he understand it; that he was attending as a juror before Mr. Sands, at the manor court of Ballylongford; that the evidence in the case was given in English, and that he did not understand one word of the evidence; notwithstanding that he was a party to bringing in the verdict there, and consented to the verdict, which astonished Mr. Freeman at the time, who was the assistant barrister.

866. Did it appear that the senechal was aware of that man's ignorance of the English language?—I do not know that.

867. Did he state that he was sworn in the Irish language or the English?—He did not; but I am of opinion that the oath was administered in the English language; I know it surprised Mr. Freeman at the time very much, and caused great merriment in court; and I must add, that I am quite surprised that so respectable a gentleman as Mr. Sands, who is the senechal of that manor, should allow the persons I am told he does to practise in that court; one of them is a man of the lowest character; I do not know what station of life to rank him in, a man of the name of Joseph Barrett; he is an agent; and the other, as I understand, is a petty session's clerk, who is not a professional person.

868. What is the clerk's name?—I think it is Kitson.

869. Mr. Maier.] Is Barrett a professional person?—Not at all; the lowest description of person to be met with.

870. Chairman.] Has he any other occupation or manner of living?—I rather think he is a parish valuator, and fills up civil bills for the quarter sessions, and a sort of pleader in the neighbourhood.

871. Are those persons of the description you mentioned, generally a low class of persons?—Yes; but in that case of Ballylongford I must draw a distinction between Kitson and Barrett; Kitson is a man of very fair character, but Barrett is the reverse.

872. If an attorney's clerk is discharged for bad conduct, and cannot find a new employer, does he not generally go to some country district and set up filling processes?—Yes, and filling leases and deeds, and it deprives us of business.

873. Mr. Lucas.] That is to say, all the inferior and least creditable business in the profession falls to the least creditable persons?—Yes, just so; I know myself an instance within the last month, where I was charging 1*l.* for filling one side of a lease, the parties, after giving me a great deal of trouble, had it done for 2*s.* 6*d.* by a discharged attorney's clerk; we lose considerably by this practice.

874. Just in the same manner as many irregular marriages are made by irregular or disgraced clergymen?—Something in the same way; it is certainly one of the greatest grievances under which we labour in country towns.

875. So

875. So that the lowest business in every profession, as it were, falls to those of least character?—Certainly. Mr. M. Leonard,

876. *Chairman.* Do any of the persons of this class practise in the court of Listowel as agents?—No; but in the time of the former seneschal, Mr. Church, the apothecary, who was the predecessor of the present seneschal, Mr. Fitzgerald, he allowed two shoemakers to practise in his court; I have seen them practising as agents in this court. 20 March 1838.

877. Were the shoemakers men of intelligence?—I rather think one of them was.

878. Were they considered sharp practitioners?—I should say not.

879. How came they to forsake the law?—Finding it, I suppose, more lucrative; and I recollect when I went into that court, immediately after being articled as an apprentice, and on my first entrance to it, the jurors demanded whisky and drink of me.

880. Were you concerned in any case?—Yes; that was in Mr. Church's court, the predecessor of Mr. Fitzgerald.

881. Did you comply with their request?—I did not.

882. Were they much displeased at your non-compliance?—I do not know, I only recollect the circumstance.

883. Was this court held at a public-house?—Mr. Church did hold it in a public-house.

884. Have you ever known suits to be brought in Mr. Church's court, in which he might be considered to be interested?—Yes; Mr. Church was collector of tithes for the Messrs. Stoughton, and I understand he was in the habit of processing to his court those persons who were in arrears of tithe at the time; they would pay the cost of the process and the entrance, and get indulgence. I have heard that that was repeated for three or four courts, and that the costs exceeded the amount of the tithe due.

885. Then those cases in which they paid costs did not go to a final decree?—I understand not.

886. It was a losing game for the people, was it not?—It put them to a considerable expense; they had much better have paid the tithe in the first instance.

887. In this case they suffered by their own folly, in paying for an indulgence at a much higher rate than it was worth?—Yes, that was before the composition.

888. Before Mr. Goulburn's Act?—Yes.

889. Might not a suit for tithes be legally brought in the manor court?—I do not think there is anything to prevent it; though I have not known, since the Composition Act, any action for tithes in any manor court.

890. What you complain of is that a party so interested as the seneschal's was, decided what was virtually his own case?—Yes, and putting the parties to enormous expense; the costs exceeded the amount of tithe due.

891. *Mr. Lucas.* Have you any objection to these small courts generally, if well managed?—I do not think they are at all necessary, particularly after passing the late Civil Bill Act; I think, on the contrary, it would be a great blessing if the country was rid of them.

892. Do you think there are sufficient facilities for the recovery of small debts generally throughout Ireland without them?—Speaking from my own knowledge, I should say generally the facilities are quite ample enough.

893. By means of the quarter sessions?—Yes, certainly; they are very well regulated.

894. Have you known any of those courts out of the county of Kerry?—No.

895. So that the general opinion you form is of course principally based on your local knowledge of the courts?—Certainly; and from consultations with my brother practitioners from time to time.

896. *Chairman.* Supposing the courts convenient, is there not this inconvenience in the county of Kerry generally, that manor courts are in the neighbourhood of quarter session towns?—Yes; the manor court of Listowel is held in the quarter-sessions town; Ballylongford manor court is only six miles from the quarter sessions; Lixnaw is only five or six miles from the quarter sessions.

897. Ballyhi is not far?—Yes, a greater distance.

898. There is a manor court at Kilarney, and that is a quarter session town?—Yes.

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899. There

Mr. M. Lennard.

20 March 1838.

899. There is another at Kenmare?—I do not know that.

900. You stated in your former evidence that there was a difficulty in appealing, on account of an objection on the part of the *seneschal* to receive appeals; do you find that the *seneschals* show that aversion in all cases where appeals are presented to them?—I have heard persons complain of it, and they have consulted me as to the manner in which they were to appeal.

901. In point of practice, do the *seneschals* you are acquainted with require appeals to be lodged on the day on which the cause is tried?—I rather think Mr. Fitzgerald is particular in that respect; I cannot speak of any other court.

902. Are you sure that he requires them to be lodged on that day?—I cannot speak from my own knowledge, though I have heard several complaints from time to time.

903. Does the *seneschal* always fill up the bail bonds himself?—I rather think Mr. Fitzgerald or his clerk does; with respect to the other bail bonds with which I have any experience, I do not know the handwriting of the parties who filled them up, but I know in almost every instance they are informal.

904. Are not a great number of decrees affirmed in consequence of the informality of the bail bonds, or of the appeal itself?—A great many in consequence of the informality of the bail bonds; they cannot go into the trial of the case, as the bond is informal.

905. The bond is generally filled up by the clerk?—Yes, or by the *seneschals*.

906. Has not the clerk a species of interest adverse to the reversal of any decree?—I rather think the *seneschal* would wish to support his decree; I rather think he has a leaning towards it.

907. In fact, if a number of decrees should be reversed, would not that remove the business out of the court?—I rather think it would have that effect.

908. Would not the removing the business out of the court, move money out of his pocket?—Yes, no doubt.

909. Would not that injure the clerk?—I do not know whether he receives any payment.

910. In case bail bonds were filled up by manor court practitioners, would not they also generally have an interest in keeping the business in the manor court?—They would.

911. These irregular practitioners that we spoke of?—I think it would.

912. Are there any at present in the manor court of Listowel?—No, not since Mr. Fitzgerald has presided as *seneschal*.

913. Are there any courts-leet held in the manor of Listowel?—I do not remember any.

914. Any market jury sworn?—No.

915. Any grand jury?—No.

916. Any presentments made often?—No.

917. Are any proceedings for the removal of nuisances taken, or acts done, though no court-leet is held?—No, I know of none. Mr. Fitzgerald has lately taken the manure himself out of the street to his farm; and that is disputed by the inhabitants, who say he has no right to do it. He claims it under his patent; and he failed to show his right at the petty sessions, when he brought parties before that court; I was concerned for them.

918. *Mr. Lucas.*] Is the street a highway, and repaired under a county presentment?—Yes, it is kept in repair by the road contractor.

Martis, 27^a die Martii, 1838.

MEMBERS PRESENT.

Mr. M. J. O'Connell.

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Mr. Redington.

MORGAN JOHN O'CONNELL, Esq., IN THE CHAIR.

Mr. George Mathews, called in; and Examined.

919. *Chairman.*] WHAT is your occupation?—I am in the office of the Chief Secretary for Ireland; I am also secretary of the Loan-Fund Board, in which capacity I acquired a knowledge of the local courts of Ireland.

Mr. G. Mathews.

27 March 1838.

920. In what manner did your office of secretary to the Loan-Fund Board give you an opportunity of acquiring a knowledge of the local courts?—The rules of the loan-fund societies are required, by Act of Parliament, to be registered before the quarter sessions.

921. Are you, then, enabled to state in how many places quarter sessions are held for each county in Ireland?—I am.

922. Have you got your return?—I have.

923. Have you got a list of the quarter sessions courts arranged according to counties?—I have, and the number of times they meet every year. (*The same was delivered in, and read. See Appendix.*)

924. Have you any knowledge of the proceedings or practice of the manor courts in Ireland?—I have none personally. As employed in the Chief Secretary's office, I have very frequent occasion to see complaints from parties aggrieved, or parties complaining of the conduct of the seneschals; I have a copy of one now with me; I could have brought a great many more, if I had known it was of consequence.

925. What was the nature of the complaint of which you have a copy?—A person complains that he has been sued before a manor court in which he does not reside; judgment has been given against him; he has lodged an appeal; he has paid the fees; but the seneschal refuses to give him a certificate which shall protect him from the execution of the decree until the assizes are held.

926. In what manor was that?—The manor of Kiltullagh.

927. How long ago?—It was on the 2d of the present month.

928. Do you know the name of the seneschal?—No.

929. Are the complaints which you have seen, founded, in general, upon the same cause, or do the causes of complaint vary?—Within the last four weeks there was a complaint of a seneschal's court, in the county of Tyrone, by a party saying he had been brought twice to the quarter sessions for the payment of tithes, and the barrister dismissed the complaint in both cases; but afterwards the clergyman brought the case into the seneschal's court, when judgment was given against him, and no regard was paid to the former judgments of the assistant barrister.

930. What was the name of that manor in the county of Tyrone?—I do not recollect at this moment; but, if required, I can send a copy of that complaint.

931. What has been the course of proceeding of the authorities in Dublin upon the occasion of such complaints?—They have felt a disinclination to interfere; in complaints from the petty sessions of the judgment of the magistrates, they have, in every case, referred back to the magistrates the complaint for report; but in the seneschals' courts there has been a general unwillingness to interfere, it being supposed they were about to be controlled by some legislative enactment.

932. Are

Mr. G. Motiwen.

27 March 1838.

932. Are you prepared to state that that is the reason why the Government do not interfere in the cases of manor courts?—It has been one reason.

933. Do you consider that to be the sole reason, or the principal reason, or a reason at all, why the Government have refused to interfere?—It has been one reason, to my knowledge, why the Government has not interfered.

934. Have you been long in the Chief Secretary's office?—Several years.

935. Are you aware what steps were taken upon complaints previous to this Committee being named?—There have been very few complaints until within the last three years, either from the petty sessions courts, or the seneschals' courts; very few, indeed.

936. Was that the only reason?—That was one reason; another was, that the Government have hitherto supposed that the petty sessions courts were more directly under their control, the judge being appointed by themselves; there was an unwillingness to interfere with the seneschals' courts because the judge was not appointed by the Government.

937. In addition to their unwillingness, was there not an inability to interfere?—There has been a question lately raised on that subject.

938. In what manner?—It has been supposed that the seneschal really holds his power from the Crown, and that either he or the lord of the manor is responsible to the Crown; and that the Attorney-general may bring either the lord of the manor or the seneschal before the Queen's Bench, if any excess of power beyond that contained in the charter were proved against him.

939. Has that supposition ever been acted upon?—It has not, to my knowledge.

940. Is there an instance known, since the original institution of manor courts in Ireland, in which the lord of the manor has been made responsible for his appointment, or the seneschal responsible to the Executive Government for his conduct?—I am not aware of any; but until last year there was an officer who was called the inspector or surveyor of King's manor courts; that office was abolished last year, it having become a sinecure, and, I suppose, having always been so; it was held by the Honourable Mr. Westons, and was abolished last year by surrender of the patent, and a superannuation being given to him, which was in the Irish Estimates last year.

941. Mr. Redington.] Have you ever known an instance of Government interfering in any case of a complaint arising from the manor courts?—I have.

942. Can you state any instance?—There have been several complaints of the manor of Eyrescourt; I know that two or three complaints against the seneschal of that court were referred back to him for report.

943. Are you aware of any report being made?—I cannot say at this moment.

944. Are you aware whether any steps were taken in consequence of his report?—I am certain that nothing was done to the benefit of the party.

945. Chairman.] At any rate, supposing the Government to have the power of controlling the conduct of manor courts in that way or not, are there not difficulties in the way of exercising that power?—There are great difficulties: in the first place, the seneschals of the manor courts make no returns of their judicial proceedings. There may be many blameable acts on their part which never come to the cognizance of the Government. The petty sessions make a quarterly return of their proceedings; all they do is made known to the Government; but it is not so with the manor courts, they report to no superior authority whatever.

946. Mr. Redington.] Have you any knowledge of a complaint made by a person of the name of Tulley, respecting the manor court of Mount Bellew, in the county of Galway?—Yes, I recollect several complaints against the seneschal of that court, Mr. Kilgallon.

947. Do you remember a complaint made by a person of the name of Tulley?—I do not; but I know there have been several complaints made to the Government respecting that seneschal during the last two years.

948. Have the Government ever directed a magistrate or chief constable of the police to make any inquiries respecting those complaints?—I do not know; some department of the office may have done so; it is not within my knowledge;

ledge; but it would be a very unusual proceeding to direct the chief constable to inquire into the conduct of the seneschal.

Mr. G. Mathews.

949. Or the stipendiary magistrates?—The stipendiary magistrates might do it.

27 March 1838.

950. *Chairman.*] In the case of a complaint from the petty sessions, has not the Government, in addition to the report of the magistrates, the means of enforcing its authority in a summary manner?—In petty sessions cases, if any of the parties are aggrieved, and think fit to apply to the Government for a re-hearing, or to make any re-statement of the case, the document received from them is immediately sent back to the magistrate for his consideration and report, and frequently a re-hearing is ordered, or some new proceeding is taken by the magistrates in consequence of it.

951. When that is done, if the magistrate's conduct appears to have been illegal or unjust, has not the Government in its hands the power of summary remedy by dismissal of the offending magistrate?—Yes, and they have exercised it in some instances to my knowledge.

952. Supposing a similar course taken, as far as inquiry and report, in the case of seneschals, is there not this difficulty, that the Government has no summary power of remedy; if they have any power of remedy at all, is it not by a slow process, and one in which, supposing it to succeed, the delay would remove the force of the example to others?—Not having appointed the seneschal, I should suppose they could not dismiss him summarily; they have no other remedy but by applying for a revocation of the patent, on the ground of corrupt conduct in the seneschal; and I have inquired, and I am not aware at this moment of any case upon record of the Government having found itself able to have a patent revoked.

953. Are you acquainted with the number of manor courts existing in the several counties in Ireland, farther than by the reports that have been prepared by the direction of this Committee?—When this Committee was appointed there was a circular letter sent to the clerks of the peace of every county in Ireland, calling upon them for a return of the several manor courts in their respective counties. The number returned was 208. The number of seneschals was 208, but only 160 courts are returned, two seneschals being in some cases named.

954. Have you got, or can you furnish, to this Committee, the number of courts in each county in Ireland?—I can procure it. There were eight counties in which no manor courts existed.

955. Did the clerk of the peace return the names of the manor courts in each county?—Yes.

956. Can that be forwarded to this Committee without any great trouble or expense?—Yes.

[The Witness was directed to forward the same.]

957. Are you aware that several existing manor courts have not complied with the order of this Committee in sending their returns?—I am.

958. Can you account for that in any way?—It is the case generally throughout Ireland; it is with very great difficulty that Parliamentary returns can be obtained even from clerks of the peace, and clerks of the Crown; they complain that there is no remuneration given to them for preparing these returns, and sometimes they are very voluminous and expensive. I do not know that that is the reason with the seneschals, but in several instances they have been written to repeatedly, and threatened ultimately.

959. Will you mention the names of the counties in which there are no manor courts?—Carlow, Kildare, Leitrim, Louth, Longford, Meath, Wexford, and Wicklow.

960. *Mr. Redington.*] With respect to what you have been stating with regard to the number of counties in which no manor courts have been held, from what document have you taken that statement?—From the return made to the Government by the clerks of the peace.

961. Are there any manor courts in Dublin?—Yes, three or four.

962. Have there been any complaints of those manor courts?—I never saw any complaints of those manor courts; I should suppose, from the nearness of those courts to the supreme courts, the parties would have a ready appeal.

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Mr. G. Stokess.

27 March 1838.

There are four courts, I believe, in Dublin, and they are all held by barristers.

963. *Chairman.*] Has it ever come to your knowledge that a complaint has been made to the Government that a seneschal continued to act in support of his decree, notwithstanding that decree was reversed on appeal to the barrister or judge?—That is not impossible, but it has never come to my knowledge. I think till very lately there was a sort of belief throughout the country that the Government had no control over the seneschals' courts.

964. Then all these complaints have been of late years?—Very late. It is only very lately that the Government has begun to call magistrates at petty sessions to account; within the last three or four years.

965. Then you consider that the complaints to the Government respecting manor courts, has been the result of the Government having interfered with regard to the conduct of the magistrates?—I think they began to interfere with them both at the same time. It is only within the last two or three years the Government began to inquire into the conduct of the magistrates, and still it is doubtful whether they are constitutionally authorized to do so, although they do it.

966. *Mr. Redington.*] Can you distinguish any particular kind of complaint as being predominant amongst the complaints to the Government, any particular grievance complained of, for instance, either being decreed and not being within the jurisdiction, or being decreed and not being properly summoned? Can you particularize any one?—Non-residence was the chief complaint, being without the jurisdiction of the manor. I thought at one time that the police attending the manor courts to keep order, gave a sort of countenance to the Government to interfere, but that was discontinued.

967. How long ago was that?—Three or four years back; there was a complaint from the seneschal, to the Government, that they were not supported as they ought to be, that they could not preserve order in their courts.

968. *Chairman.*] In the other counties where there are manor courts, are you aware whether, in general, the larger portion of the country is affected by these manorial jurisdictions, or is independent of them?—I could not undertake to describe the territorial boundaries of the manor courts, although it could be very easily done.

969. Do you think that a map of Ireland could be produced upon which the manorial jurisdiction could be marked out and defined?—I do.—(*The witness was directed to procure such a Map.*)

970. *Mr. Redington.*] Have you ever attended any manor courts?—I have been once or twice at Saint Sepulchre's in Dublin, merely from curiosity in passing by.

971. *Chairman.*] That is held in a regular court-house?—Yes.

972. And is altogether a favourable specimen of the class?—I should think so.

973. *Mr. Redington.*] Are you aware that parties belonging to the loan fund in any district have proceeded for the recovery of their debts in these courts?—I have never known them go to the manor courts, and I should think they would go with greater readiness to the petty sessions courts.

974. Can you give any account of the number of appeals to the judge of assize from the manor courts?—It could be obtained; the clerk of the Crown would be the officer who would furnish that return. If called for, it could be procured.

975. Could he also give the adjudication of the superior courts upon such appeals?—He could.

976. Can you give, in addition to the return of the quarter sessions courts, the number of petty sessions courts held in each county of Ireland?—Yes, I produce it now. (*The same was delivered in and read. See Appendix.*)

977. Can you state how frequently each court is held?—A great many of them once a week; upon an average in Ireland, once a fortnight.

978. But are you able to state, in each particular instance, how often the court is held?—I have a return with me which shows the names of the courts, and how often each court sits.

979. From the returns you have, can you state that once a fortnight is the average of the sitting of the courts which are held?—I can, of the petty sessions courts.

980. Do these petty sessions courts in any part of their jurisdiction supersede the necessity of manor courts for the recovery of small debts?—In the matter of debts, the only civil bill jurisdiction they possess is in wages cases; I may, however, add, it is the general wish that they should also have a small debt jurisdiction conferred upon them to a limited amount. They are now becoming regular courts; their proceedings being brought before the Government, and the magistrates regularly attending them, give them a character of regularity which they did not formerly possess.

981. To what amount would you suggest that they should possess a small debt jurisdiction?—They commenced many years ago in Scotland at 40s., being now raised to 5*l*.; perhaps, if a similar course were tried in Ireland, 40s. might be a fair commencement in a court of conscience.

982. Would you suggest any provision to ensure legal knowledge on the part of the judge of such tribunals, supposing that jurisdiction to be given to them?—If you can trust them with the power at present of adjudicating upon wages cases to a greater amount, it may almost be taken for granted that they are also capable of disposing of small debt cases to the amount of 40s.

983. What is the amount of their jurisdiction in wages cases?—I think 6*l*.

984. Then if there were not some difference between cases of wages and other small debts, why would you limit the amount to 40s., why not make it 6*l*., to make it equal to wages cases?—It is a new species of business, brought to the petty sessions, and perhaps it might be better to try it upon a small scale at first.

985. But is not there a difference between wages cases and other small debt cases?—There may be so.

986. Is not the simple fact of hiring the most easily proved case of contract, and one in which the least legal knowledge, beyond the ordinary principles of evidence, is required?—I believe it is; but in transactions so limited in amount as 40s., I cannot conceive any difficulty could exist in the petty sessions courts in adjudicating upon them; they are of a very simple character, and they have proved beneficial in England and Scotland. I do not see why in Ireland they should not be equally so.

987. What jurisdiction have the magistrates of England in such cases?—In the courts of requests.

988. They are not necessarily held by magistrates?—I believe they are in some cases, under local Acts.

989. Mr. Redington.] Are you aware whether resistance to the decrees of the seneschal is a common occurrence?—I only know of such proceedings by the complaints of parties aggrieved making a representation to the Government.

990. Have those grievances often had reference to resistance to the decree, when the seneschal's bailiff came to enforce it?—I should think the person resisting the decree would not report that to the Government. I am not aware of the seneschal having gone to the Government when there has been any complaint of resistance to the decree.

991. Are you aware of any such complaint having come to the knowledge of the Government through the constabulary officers?—I am not.

992. Chairman.] Are you aware whether any of the seneschals are magistrates?—They are; I have a list of those who are magistrates. (*The same was delivered in and read.* See Appendix.)

993. Are you aware whether the fact of their being magistrates has at all removed complaints from those courts?—I have heard a seneschal say so himself, I do not know it otherwise.

Javis, 5^o die Aprilis, 1838.

MEMBERS PRESENT.

Mr. Bridgeman.
Mr. M. J. O'Connell.
Mr. Jephson.

Mr. Maher.
Mr. Redington.

M. J. O'CONNELL, Esq., IN THE CHAIR.

Mr. Denis Leonard, called in; and Examined.

Mr.
Denis Leonard.
5 April 1838.

994. *Chairman.*] IN what profession are you?—An attorney.
995. Where do you reside?—At Kilrush, in the county of Clare.
996. Do you practise in the county of Clare?—I do.
997. Have you, in the course of your practice, had any experience of manor courts in that or the neighbouring counties?—I have had a good deal.
998. Is there a manor court in Kilrush?—There is.
999. Have you ever attended professionally in that court?—I have.
1000. Have you frequently attended?—Yes, frequently.
1001. Is the seneschal of Kilrush a professional person?—No.
1002. In what situation of life is he?—His family are respectable, but he has rendered himself not so by his course of life.
1003. Has he long filled the office of seneschal of that manor court?—I believe he has; but having been only a year and a half in the county of Clare practising I cannot exactly say; he was in the situation when I went into that county.
1004. Who is the lord of the manor of Kilrush?—Crofton Moore Vandeleur, Esq.: there are several manors in the immediate neighbourhood of which he is the seneschal; of those several manors, Mr. Westley and Mr. Crofton Moore Vandeleur, and Mr. Macdonald of New-hall, are the lords, as I best remember.
1005. Are you clear in the fact that there is more than one manor, and that this person is seneschal of them all?—Yes.
1006. Where does he hold his courts as seneschal of those manors?—He holds one court in the town of Kilrush, and another in the little town of Kiltree, known by the name of Dough.
1007. The manor is called Dough?—Yes; another Dunoughboy; I have not attended any others.
1008. Is the manor of Kilrush an extensive manor?—It is not a very extensive manor; the manors in the immediate neighbourhood render it not so.
1009. Is there any other town or village in it besides Kilrush?—I believe he holds a court in some town or village for the manor of Kilrush, but I am not prepared to say where that is.
1010. Are you aware what is the population of the town of Kilrush, in round numbers?—I should say, as nearly as I can calculate, about from 3,000 to 4,000.
1011. Is it the quarter sessions town for one of the divisions of the county of Clare?—It is.
1012. Can you undertake to say whether the town population, or the rural population, of the manor of Kilrush, is the greater?—Certainly the rural.
1013. A considerable portion consists of the town population?—Yes.
1014. Are you aware whether the whole manor is the estate of the lord of the manor?—As far as my memory serves, it is the property of Crofton Moore Vandeleur, esq.
1015. Where is the court held for that manor?—In the court-house at Kilrush.
1016. Are the manor courts in the other manors you have mentioned held in regular court-houses?—No.
1017. In what sort of houses are they held?—They are held in empty houses; Kiltree

Kilkee being a bathing-place, some of the houses of the bathers, which are left empty in the winter season, are used for that purpose, and in the summer season it is held in one of the public-houses.

1018. Are the houses fixed?—No, not fixed, except this one at Kilrush, as a matter of course.

1019. How is notice given of the place where the court will be held?—By a written notice, signed by the seneschal, that a court will be held on a certain day at a certain place.

1020. How long is that written notice given previous to the day of holding the court?—Generally a fortnight.

1021. How often is the court at Kilrush held?—Once a month.

1022. Is it held on any particular day in the week?—On the first Monday in the month.

1023. How long does it generally sit on those days?—From twelve till about four.

1024. Are the jurors regularly summoned?—No.

1025. Are they ever summoned?—I believe not; I have never known summonses to have been issued.

1026. Of what class of persons are the juries generally composed?—Of some few of the shopkeepers of the town, and occasionally men of bad character, taken promiscuously in the court, and called upon to be jurors.

1027. In what capacity do the shopkeepers attend the court; do they go for the purposes of their own business, or the pleasure of serving as jurors?—I rather think it is for the accommodation of the seneschal.

1028. Have the shopkeepers in Kilrush generally a fancy for serving on juries?—I think not, but so it is. Mr. Colpoys, the seneschal, is connected with a great number of the shopkeepers there, and many of them go there to fill the office of jurors to accommodate him, and for the purpose of keeping up the court. There is a good deal of dissatisfaction felt at the way in which this department of business is conducted.

1029. Mr. Redington.] Is he resident in the town?—In the immediate neighbourhood.

1030. Chairman.] Have you practised at the quarter sessions?—I have.

1031. Have you not often known the shopkeepers pray the court of quarter sessions to exempt them from attendance on the jury?—I have known that they have been very exact of late in consequence of Mr. Major allowing no exemptions; they have ceased to ask it as a favour from him; unless in very extreme cases, he will oblige them to attend their duties as jurors regularly. I should state that there are only a few of those shopkeepers who attend in this capacity, perhaps not more than three or four, that I generally see there every court day regularly; not the shopkeepers generally, but those three or four persons I scarcely ever miss out of the court.

1032. They are a sort of constant jurors?—Yes.

1033. Are the other jurymen, who are not shopkeepers, equally regular in their attendance?—Yes, they are indeed; but I rather think those persons are, some of them, the hon companions of Mr. Colpoys, who is, unfortunately, intemperate in his habits.

1034. Are you aware whether he was of such habits before he was appointed seneschal?—I did not know him, and cannot say.

1035. Are you acquainted with the rumour of the neighbourhood sufficiently to say whether it was the office which created the habit, or whether the habits were considered to qualify him for the office?—I did not know the gentleman until I came to live at Kilrush as a professional person.

1036. Mr. Redington.] You would think the majority of the jurors, who serve on the juries, are generally the same persons at each court?—Yes, I am quite clear of that.

1037. Chairman.] Parties who intend to go into the court are generally pretty well aware beforehand who will constitute the tribunal to decide upon their cases?—There is scarcely a doubt of that; where there is anything material, what is called a wrangle, they are sure to know who is to be on the jury.

1038. Mr. Redington.] How is notice given of the time of holding the court?—Generally a fortnight before, two or three miserable, small pieces of paper are

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pasted up in different parts of the town, so that they may be seen by accident; but it is a general rule, that the court is held the first Monday in every month.

1039. Is the court always holden on those days?—Yes.

1040. Have you ever known an instance of a person being summoned to attend on a day on which the court was not held, and that he was afterwards decreed against on a day on which there was no notice of a court?—No; the particular individual processed is supposed to have received notice of that by the service of the process, that states the day.

1041. Supposing a court were not held on that day, but held on a future day, of which no further notice was given, have you ever known an instance of a decree in absence?—I have never known an instance of that.

1042. *Chairman.*] The persons who were to be on the jury being known, have you ever found that any canvassing took place among them previous to the cause going into court?—I have not known that fact; but I have had experience that such a thing must have taken place, from what has occurred to myself in practice in the court, that there must have been some prior knowledge of the facts, and a prejudice on the part of the jurors.

1043. A witness in the course of the inquiry last year, who was seneschal of another manor court in the county of Clare, stated as his reason for not summoning the jurors, that the fact of persons being summoned made the jurors known, and gave rise to canvassing amongst them; therefore that he discontinued the practice, and took them from among the by-standers. Granting that, there may be some reason in the cause which has been alleged for departing from the practice of summoning juries in some cases; is not the system which exists in the court of Clare quite as objectionable as the summoning juries?—There is not a doubt of that.

1044. Is it considered a respectable thing to be in the habit of serving on juries in the manor court?—No, it is not; there is nothing disreputable about it; but it is not considered very respectable; we have no shopkeepers of the higher class on the juries; I have no doubt if the court were properly conducted it would be so.

1045. Are the shopkeepers who attend in the manor courts often empannelled on juries at the quarter sessions?—Three or four of them, I think, but not more.

1046. Are persons not shopkeepers, who serve on the juries at the manor court, on the juries at the quarter sessions?—No.

1047. Are they qualified to serve on juries at the quarter sessions?—They are not.

1048. Do they reside in the town or country?—Chiefly in the town.

1049. Are they householders in the town?—I rather think some of them are, but I cannot say so of the whole.

1050. Are they all resident within the manor?—Yes, I think so.

1051. Being resident in the town, have you found the country suitors in the court ever complain, or seem to feel, that there was an unfair prejudice on the part of the town against the country?—I have certainly heard a good many complaints from persons of not being fairly dealt with by jurors, but not from the particular cause of the jurors being taken from the town; they have expressed generally that their case has not been fairly dealt with. In very many cases there are only a few jurors called in each case; perhaps two, three, or four.

1052. *Mr. Redington.*] The number of jurors is optional?—Yes, and in a great number of cases there is no jury at all. The seneschal issues a summons, called a petty action, a petty process, which is a different proceeding altogether from that under the Act of Parliament: this he issues out for all actions of debt under 5*s.*, he then decides himself, unless the demand be opposed; he takes the oath of the person claiming, and makes his decree without examining any witnesses on the evidence of the person claiming; if there be any defence made to the action, it is put off for a while until the latter part of the day, when it is tried by those three jurors; if it exceeds 5*s.* then it proceeds in the regular way. There is a fact which I think it right here to state: I was concerned a short time back for a poor creature that came into my office to say that he was processed for a few shillings, the price of shoes sold and delivered, and being a very poor person I went down to defend him; the case was proved against my client, and I entered into the defence; I examined several witnesses, and when

I had

I had nearly closed the case for the defence, I saw one or two of the jury who had been out during my defence come in, and one of them was beastly drunk, and had not heard what defence I made; I spoke of this very strongly at the time, but it was of no use; there was a decree made against my client.

1053. Mr. Maher.] Was he allowed to resume his place among the jury?—He was.

1054. Chairman.] Was that a case under 5s. or over?—I am not positive, but my impression is, that it was under 5s.

1055. Did you appeal in that case?—I recommended my client to appeal, but I believe the poor fellow was afraid of the expense of the appeal, and he was induced to pay the debt rather than to do so. If I remember right, I told him I would conduct the appeal without any personal charge, but he was afraid of going to any expense.

1055*. Have you got a copy of the summons which is issued in the case of those petty actions?—I have not.

1056. Can you send one to the Committee?—I will do so.

1057. Do you know under what authority the seneschal takes upon himself to decide those petty actions?—I do not; I have objected to it in the court as knowing it to be illegal, and my objection has been overruled. There is another fact I think the Committee should be made acquainted with: A Mr. Patterson, of Kiltrush, was processed to that court, by this petty action process, for a sum I think of 3s., however under 5s. In the multiplicity of business, Mr. Patterson having been from home, there was a decree obtained against him; that decree was executed on a saw, what is called a frame-saw, valued at 1*l.*, and sold for some trifle under the costs of the action; in the meantime the period for execution ran out, and there was a second summons issued for the remainder, and a decree pronounced upon it; that is, a decree upon the remnant of a decree. Mr. Patterson was greatly annoyed about it, and made a complaint to Mr. Vandeleur, who came into the court, and, in consequence of that, and other irregularities, ordered his seneschal to give up the books and cease to be the seneschal of the manor, which he would not do, and that is the position in which those two gentlemen now are.

1058. How long ago is that?—This was very recently; I suppose within the last two or three months.

1059. Has a court been held since that period?—On another occasion, and since the above circumstance took place, a court was being held, and Mr. Vandeleur came in and told the persons in the manor court that he did not consider there was authority for any proceedings that Mr. Colpoys was taking in court. Mr. Vandeleur, I believe, intends applying to the superior courts on the subject.

1059*. What proportion do the cases under 5s. bear to the number of cases above 5s.?—I should say about ten to two.

1060. The jurisdiction extends to 10*l.*, does it not?—Yes.

1061. Do you mean to say that the decision of the petty actions without a jury is only in case they are undefended?—Yes, if they are defended he generally swears three persons to try them; the costs in a dismiss are 5*s.* 6*d.* in case the jury is sworn.

1062. How much without a jury?—In case the jury is not sworn it is no more, I think, than 1*s.* 2*d.* or 1*s.* 3*d.*

1063. Can you state that the costs in that case, supposing the seneschal refers it to a jury, are in that proportion less than for a dismiss?—No doubt of it, unless an attorney be employed for the plaintiff; if an attorney be employed for the plaintiff, he will require the costs under the Act of Parliament; I always did, but I know those persons who have required to have their cases tried there for small debts get their decree for some trifle, 1*s.* 2*d.* or 1*s.* 3*d.*; but if an attorney appears, and the case is defended, the attorney will of course see there are proper costs.

1064. If an attorney appears is he obliged to enforce the full amount of the law?—He does so for his client as matter of right; I always have done so.

1065. Whether an attorney appears or not, does he always enforce it in case of a dismiss?—No, it is only where the attorney appears.

1066. Is the calling of a jury of three persons in a defended case optional; does he claim this petty action jurisdiction independently of a jury, as a matter of right to himself?—I think he considers himself bound to have a jury where it is defended.

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1067. Whether by attorney or not?—Yes.

1068. Mr. Redington.] Supposing no attorney appears, and it goes to a jury, what would be the costs for a dismiss or a decree?—Something very trifling; 1*s* 4*d*. or 15*s* 4*d*.

1069. Have you ever known a dismiss and a decree given in the same case, one to the plaintiff, another to the defendant?—I cannot charge my memory that I have; but from the manner of conducting business, I do not think it impossible that such a thing might have occurred. A very extraordinary thing occurred very recently: two or three persons gave me their defences in petty actions; I generally, in petty actions, take cases not for any emolument, from the poverty of the suitors, and the smallness of the sum sought to be recovered; in two or three cases I went down to defend the actions. I have stated all those actions are generally put off to the last; I was in a hurry, and wished to get over to Ennis; I wished to get on with the process; I begged the seneschal to call them on, to enable me to get into Ennis, as the assizes pressed; he said, "Oh, just write them down; tell me the dismisses you want, and I will have the dismisses prepared for you." I said, "What, without calling them?" He said, "Oh yes; it does not signify to you how I have them." I wrote them down, and got them.

1070. You were for the defendants?—Yes.

1071. Did the plaintiffs appear in those cases and get a decree as well?—I believe not; I got my dismisses, and that was all I wanted.

1072. Mr. Maher.] What costs did you obtain upon those dismisses?—Five and sixpence on each.

1073. As against the party bringing the action?—Yes.

1074. Mr. Redington.] You cannot state positively whether the plaintiff was heard, or whether there was any appearance on the part of the plaintiff?—Yes; in one of them I remember, just as I was setting out to Ennis, my client came to me, and said his case was going on, but I having gone into court, got my dismiss without trouble. I heard no more of them.

1075. Chairman.] In cases above the amount of 5*s*. are the juries still of the small number you have mentioned?—Yes.

1076. Have you ever known a full jury of 12 empannelled in any case?—Very rarely; but I have known it.

1077. Has that been empannelled at the instance of the parties, or of any professional person employed?—I rather think at the instance of the professional person employed.

1078. Can you state, from your own knowledge, that it ever has been insisted on by any professional person?—I do not think that the question has been raised; I think if a party requested a full jury, that Mr. Colpoys would not go on without giving it; I think he would not act so glaringly improperly as to refuse it if it were demanded, though he is very ignorant of law.

1079. Have you ever known an appeal to be made from his decree on the ground of an insufficient number of jurors?—No.

1080. Do you conceive any decree to be a legal one which was given without a full jury?—I do not; but I question very much whether a judge of assize would suffer that to be gone into.

1081. Why?—I rather think he pronounces upon the documents brought before him; the decree is not one of those; simply the appeal is brought before him; a decree is named in the appeal, but he will not question the decree itself as a document, at least I have never known of such a thing, but he would go into the merits of the case at once.

1082. Mr. Redington.] If the whole merits of the case depend upon whether the decree be properly made, will not he go into that?—I have never known an appeal upon that point; there is no appeal from the dismiss of the seneschal; which is a very great injury to the suitor; if he be dismissed he cannot go into another court, nor can he appeal from the decision of that court; a number of persons are greatly injured; by this I know a person who has brought a number of cases before the court in Kilrush, and never got a single penny; from having been dismissed by a partial jury, he has lost his debts for ever.

1083. Chairman.] You do not think that the Judges on the trial of an appeal would go at all into the evidence of the illegality of the trial in the manor court?—I have never known that to take place.

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1084. Is not the very record of the appeal a proof to them of the decree being regularly obtained?—Certainly.

1085. And that being the case, they go regularly into the case as if they were commencing the proceedings?—Yes, that is my experience.

1086. What course would you recommend a person to take who wished to try the right of the seneschal to try without a sufficient jury; would you recommend him to allow his goods to be taken, and to issue a replevin, or what other course?—I would recommend that an application should be made to the superior court against the seneschal, and I think the 7th Geo. 4, c. 41, s. 6, gives a remedy in cases of misconduct of the office of seneschal, "all seneschals not being barristers of three years standing, shall enter into recognizance within two months after their appointment, and those now holding office, within six months after the passing of this Act, for the performance of their duty, to answer in damages for misconduct, under the penalty of 300*l*."

1087. Should you recommend an application for a mandamus to the Court of Queen's Bench, or an action for damages?—I think both remedies exist.

1088. The former by the common law, and the latter by the statute law?—Yes; an action for loss and damage for injuries sustained by the party.

1089. Is not that an expensive process?—Very.

1090. Quite out of the reach of the ordinary class of suitors in the manor court of Kilrush?—Certainly.

1091. If the amount decreed for was small, and the loss sustained came under the amount of 20*l*., might not the party process the seneschal in the quarter sessions civil bill court?—I think not; I do not think it has jurisdiction to try actions against seneschals for misconduct.

1092. Do you conceive that the existing state of the law renders the seneschal practically irresponsible for any illegal conduct of this kind, however great the damage may be?—I certainly do, practically.

1093. Has Mr. Colpoys given any security for the discharge of his duties?—I am not certain; I believe not.

1094. If he gave it in 1826 or 1827, on the passing of the Act, will it necessarily follow that his sureties should continue solvent up to this period?—No.

1095. Is there any provision in the Act for the renewal of the sureties from time to time?—No.

1096. You have stated that the conduct of the juries has been impugned by suitors in the court; are they considered to be influenced by corruption of any kind?—Both by corruption and prejudice; they are considered as being influenced by a private feeling of friendship for the parties.

1097. You have stated that you saw a juror in a state of intoxication; has it ever within your knowledge been the habit of parties to give drink to the jurors in court?—I have never seen that; I have seen the seneschal leave the court evidently for the purpose of getting drink, but then he must do that as a matter of course, from his state of health, which requires that he should take stimulants during the day, in order to get through the business. I have never known it to extend to the jury in court, but on the occasion above alluded to.

1098. Have you ever attended any other court except that of Kilrush?—I have.

1099. Have you ever been present when they sat in public-houses?—But upon one occasion, and that in the town of Kilrush, when the court-house was employed by the magistrates on some inquiry which was going on at the time.

1100. Was the court less orderly on that occasion than it usually is?—I could scarcely draw a distinction, for I never knew it in any other but the most disorderly state. The greatest uproar and confusion; the parties blaspheming and abusing each other. The seneschal allows all this with impunity; in fact, he appears to have no power; at least he does not exercise any power in the court; nor has he the means in his hands of keeping the suitors in order.

1101. In the court-house do the juries sit in a regular place assigned to them, a jury-box?—Yes, but it is quite close to the by-standers, and there is no removal from them; there can be, and is, every kind of interference with them during the conducting the cause; they hold regular conversations.

1102. Do three or four persons address the jury at once?—Oh yes, a dozen.

1103. Some in English and some in Irish, probably?—Yes, some in English and some in Irish; a regular tower of Babel.

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1104. Does the seneschal take care to prevent illegal evidences going to the jury?—He has not the slightest idea of the distinction between legal and illegal evidence.

1105. Do the jury ever retire, in any cases, to consider their verdict?—I have never known more than three instances of that since I came to Kilrush.

1106. In those instances was it a full jury?—I think it was a full jury.

1107. In a defended case do they consult together in the box for any time before they give their verdict?—Yes, they do.

1108. While they are consulting in the box can the parties interfere with them?—Yes, they can; I do not say that they do.

1109. *Mr. Redington.* Have you ever known a verdict given against the charge of the seneschal?—He never charges, he has no idea of charging.

1110. *Chairman.* Does he suggest to them which way they ought to decide?—No; he is incapable.

1111. When they deliberate, do they deliberate upon one case at a time, or wait, and consider three or four cases together?—They deliberate upon three or four cases at a time; when one case is over they try the next; they have three or four cases on hand at a time, and give in the whole as a batch.

1112. The jury are not sworn till late in the day?—About two o'clock.

1113. When they are sworn, the average of cases probably is eight or ten?—Perhaps about seven or eight.

1114. If they should happen to be all defended, do they decide on all seven at once?—Yes.

1115. Even though an hour-and-a-half may intervene between the conclusion of the first case and that of the last?—Yes, precisely so.

1116. When they have retired, have they taken a batch of cases with them to consider?—Yes; I have known them to do so.

1117. Have they a regular room to retire to?—They have.

1118. The same as the quarter sessions jury have?—Yes.

1119. Is that room kept carefully secluded?—I think so.

1120. There is no entrance to it except one from the court?—No.

1121. You never heard of such a thing as a bottle of whiskey being handed into the jury?—I have heard of it as a rumour, not in Kilrush, but have never seen it.

1122. Do any persons, not regular attorneys, practise in the manor courts?—They had been doing so before I came to Kilrush; I have put a stop to it; there was a person who was not an attorney practising there, and allowed by the seneschal to practise; but when I came, I would not allow him to address the court while I was there.

1123. You conceive their practising to be quite illegal?—Yes.

1124. Are they liable to any penalty for practising?—No; there are the most horrible ruffians practising as attorneys in this court, when a professional person does not attend.

1125. Are they clerks who have been discharged by their employers?—Yes; and drunken fellows of the villages.

1126. Do any persons connected with the court, as bailiffs or marshals, ever practise as agents?—I have not known that; such a thing would not occur, I think, where any respectable attorney was in court, he would not allow it.

1127. *Mr. Redington.* Have you ever known a decree renewed after it had been set aside by the decree of the judge?—No, never; but in the case of a decree being lost, I have known it to be processed over again and decreed. Suppose the debt to be 5*s.*, the decree on that would be 5*s.* 6*d.*, that may be lost, and I have known them bring an action afresh for the full amount of debt and costs, and get a decree upon it; and a very extraordinary thing has occurred since I came to Clare. There was a decree lost, and the person came to me to get a fresh one; I went the regular way to work, drew out an affidavit of the facts, and had that affidavit sworn in court, and there was notice served upon the other party to come in and show cause why it should not be renewed. I was strongly opposed by the seneschal, and by the attorney on the opposite side, upon this practice, that it was never known or heard of in Clare before, and that it could not be admitted; however I was fortunate enough, after a great deal of trouble, the matter being put to the jury, to get a duplicate of the lost decree.

1128. Did you get costs against the party opposing you?—I did not; I think I did not require costs, not being entitled by Act of Parliament to any.

1129. *Chairman.*

1129. *Chairman.*] Have you been concerned in any case where a fresh decree for the amount of the original decree and costs was obtained?—I have known it to be the practice before I came, but I was concerned for the defence in a case since I came to Clare, and succeeded in upsetting such practice.

1130. Five shillings and sixpence, you say, are the costs charged; do you consider that, under the circumstances of the manor court of Kilrush, a legal charge?—Yes, I do consider it legal.

1131. Have you studied the Act of 25 Geo. 3?—I have.

1132. Have the goodness to refer to the items of costs allowed under that Act, and state whether one of the items is not a fee of 1 s. to the bailiff or marshal for summoning a jury?—It is 1 s. 1 d.

1133. No jury is summoned in the manor of Kilrush?—No.

1134. You conceive the bailiff or marshal entitled to keep that for a duty he does not perform?—I think not; but it is claimed by the seneschal, who remunerates, I should think, the bailiff for his trouble: it is a kind of emolument to the seneschal.

1135. *Mr. Redington.*] The fees are all paid to the seneschal?—Yes; he settles with his bailiff as he best can.

1136. *Chairman.*] The seneschal appointing the bailiff, makes terms with him that he shall receive the fees, and gives the bailiff a *quid pro quo*?—Yes.

1137. Whether the seneschal or the bailiff receives the fees, do you think the court is entitled to charge a fee for its officer for a duty which it does not render the performance of by its officer?—Strictly speaking, I think not; it is very unjust to charge it, certainly, though the Act of Parliament gives 5 s. 11 d. Irish for each decree.

1138. *Mr. Redington.*] Is there any fee paid to the bailiff for putting the decree into execution?—There is.

1139. *Chairman.*] It is 6 d. for the first 1 l., and 3 d. for every 1 l. afterwards, is it not?—Yes.

1140. What duties does the bailiff do?—He serves the processes, attends and gives evidence of the service, and executes the decrees.

1141. Is no one but the bailiff allowed to serve the processes?—No.

1142. *Mr. Redington.*] In cases where the defendant does not appear, is the service of process always required to be proved in the court of Kilrush?—Yes, always; but the witnesses names are not taken down in that case.

1143. *Chairman.*] Is not the seneschal bound to put them down?—Yes; but the book is abominably kept; he ought to keep a book containing the names of the plaintiffs and defendants, and the witnesses sworn to give evidence, and the amount pronounced to be due; and he should, in point of fact, deliver a duplicate of that to the clerk of the peace for the county, to be kept as a record; but that is not done in the county of Clare. I believe the only person I have met with who strictly adheres to the provisions of the Act of Parliament in conducting manor courts, is Mr. Richard Fitzgerald, the seneschal of the manor court of Listowell; he is very regular.

1144. *Mr. Redington.*] Have you ever known a bailiff proceed to put a decree into execution, and not be provided with a copy of the decree or the original document, and still continue to seize the goods, though he had no authority to show?—Such a case as that never came before me.

1145. *Chairman.*] Are there complaints of the state of the law and the practice on the subject of appeals?—A great many complaints.

1146. In the first place, does the seneschal interpose any difficulty in the way of appeals?—I have known the greatest difficulty; I have been obliged to go from Listowell, in the county of Kerry, to Ballyhigh, for the purpose of compelling the seneschal to take an appeal.

1147. Was that long since?—It was two or three years ago.

1148. Who was then the seneschal of Ballyhigh?—Major Crosby, the present lord of the manor, the heir apparent of the then lord of the manor; it was stated to me as a reason, that there never had been an appeal lodged from that court, that they had no form; I was obliged to make out a form.

1149. In Clare, have you known any difficulty thrown in the way of persons who wished to appeal?—I cannot exactly say that there were difficulties thrown in their way; I have known the appeals to be informally drawn up, and consequently dismissed, and the original decree stand affirmed.

1150. By what sort of persons were those appeals filed up?—By the seneschal,

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schal, and hence it is, in many instances, that we hear of the seneschals' decisions not being reversed at the assizes.

1151. Does the seneschal insist upon drawing up all those appeals himself?—He does not insist upon it, but in nine cases out of ten, it is done by him, unless an attorney he employed, then of course he will not allow it.

1152. In all such cases, the state of the law is such, that the greater the incompetence of the seneschal, the greater the difficulty in reversing his decrees?—Yes.

1153. Whereas the greater ought to be the facility for reversing his decrees? Certainly.

1154. So that in that case, the law and the good sense of the thing, are diametrically opposed to each other?—They are; I have heard numbers of complaints on that very point; the poor creatures go with their witnesses a distance of 30 or 40 miles to the assizes to have their appeals tried, and they have been defeated at once, in consequence of the informality of the appeal filled up by the seneschal.

1155. With that difficulty thrown in the way of a *bond fide* appeal, is there not great facility given to vexatious appeals?—The greatest possible facility to vexatious appeals, for a person may appeal without giving any test that it was for the purpose of having his case properly decided on; in nine cases out of ten they are sent in for the purpose of gaining time, and for vexatious purposes.

1156. In those cases, the informality of the appeal, by whomsoever filled, does prevent a delay till the assizes?—Certainly.

1157. Even if the party appealed against should wish to get costs upon the appeal, which the informality would secure to him, is it not frequently better worth his while to stay at home than go to the assize town at a great distance from his residence?—Certainly.

1158. Do you not conceive that, if the manor courts be regulated by Act of Parliament, a great deal of evil might be avoided by giving an appeal, under certain restrictions, to the assistant barrister's court?—It has certainly struck me to recommend that there should be certain restrictions put upon appeals; I did not contemplate to have them sent to the assistant barrister's court, but I do think it would be a very essential benefit to have them tried by the assistant barrister, that that would bring justice home to the poor man's door.

1159. It might be fair in that case to require that juries should be empanelled in all such cases?—Yes.

1160. Would not the frequency of the court, and the much shorter distances the parties have to travel, both encourage just appeals and prevent vexatious ones?—I certainly think it would; but I also think one of the principal things which should be considered upon that point is, that a person should be prevented appealing unless he had just grounds to go upon, and that upon affidavit, to be filed, as in the case of the civil court at quarter sessions, by the suitor, or by an attorney, that he does so under the impression that he has a fair and reasonable hope of success, and that it is not for the purpose of delay.

1161. That however would be available only in such cases where a professional person was employed?—I should recommend, that where there was not a professional person employed, the suitor himself should lodge the affidavit.

1162. Would not the power of mulcting in extra costs make it more efficacious?—I think that should be imposed also; but persons, to save a short time, will lodge their appeal under feelings of excitement and vexation; but they should be required to swear, in the first instance, that they had just cause of appeal, and afterwards mulct them in costs if they did not succeed.

1163. Where persons would lodge an appeal under feelings of excitement, with the prospect of extra costs, do you not believe they would also swear affidavits under excitement?—An affidavit is too serious a thing, I think, to be trifled with in that way; they would, in matter of excitement, care nothing about money; whereas if you put the book into their hands, it would be quite a different thing.

1164. Do you think the class of suitors are generally persons who have so strong a reverence for the sanction of an oath, that they would not be induced by any excitement to perjure themselves?—No doubt some of them would; but I think many of them have an high idea of the moral obligation of an oath.

1165. May not the very excitement you mention prevent their judgment being quite clear?—There are instances where persons in the moment of excitement will do that which in their calm moments they will disavow, certainly.

1166. Considering

1166. Considering it in this view, that any tribunal to which the appeal is referred, whether judge or assistant barrister, may be more unwilling to decree against them for the extra costs, in consequence of the oath they have taken, considering that he will not only inflict a pecuniary loss, but the loss of character; do you not think that if the provision for the costs were made efficacious, it would be better that the affidavit of the party should be dispensed with?—That is certainly a new view of it that I have not taken before; I think that would have the effect of preventing the frequency of appeal.

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Lnac, 9^o die Aprilis, 1838.

MEMBERS PRESENT.

Lord Hillsborough.
Mr. Mahon.
Mr. Mayneil.

Mr. M. J. O'Connell.
Mr. Redington.

M. J. O'CONNELL, Esq., IN THE CHAIR.

Mr. *Denis Leonard*, called in; and further Examined.

1167. *Chairman.*] IN the manor court of which you spoke in your former examination, does the process by attachment, commonly called *distringas*, exist?—It does.

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1168. In the issuing those attachments is an affidavit required by the senechal?—An affidavit is required by law, but I have reason to believe it is frequently dispensed with.

1169. When the law is complied with, and the affidavit is made, is it a simple affidavit of debt, or is anything contained in it relative to the danger of the loss of the debt by the party leaving the jurisdiction, or any other cause, unless the attachment be granted?—It is generally stated that the *distringas* is prayed in consequence of the fear of the party leaving the manor, and the plaintiff losing the debt in consequence.

1170. What is the cost of issuing an attachment?—I have never had one, but I believe it to be very trifling; I am not prepared to say what is the amount.

1171. Who executes it upon the goods of the defendant?—The bailiff or marshal.

1172. There is no special bailiff ever appointed for the purpose?—I have never known that.

1173. When the goods are seized under the attachment, are they usually left in the custody of the marshal till trial, or are they bailed?—On some occasions they are bailed, in other instances they are left in the custody of the marshal; they get into the plaintiff's care, who undertakes to keep them for the marshal; they are supposed to be in the marshal's custody, but the plaintiff takes charge of them till the trial comes on.

1174. Does the plaintiff give security to the marshal for the safe custody of them?—I have never known that required.

1175. Are they ever kept by the marshal himself?—Yes; if the goods happen not to be cumbersome they would, I dare say, be kept by the marshal himself.

1176. Has he a store or place for the custody of those goods?—No.

1177. Have you ever heard complaints of the deterioration of the property of a defendant during the time it remained in the custody of the marshal, or was under the marshal's authority?—This course of proceeding being so very unfrequent, I have not heard of complaints.

1178. Do those attachment cases usually proceed to trial, or is the debt settled before the time the trial comes on?—Generally speaking the debt is settled, when an attachment takes place, before the trial is brought on.

1179. A court is held you say once a month?—Yes.

1180. If goods were seized under attachment a day after the court day, they would be kept nearly a month in custody?—Yes.

1181. Does the hardship a party will suffer by the detention of his goods for so long a time, ever lead to the concession of claims which were not perhaps founded in justice?—There is no doubt that it has had that effect; but on the other hand, it is very beneficial, it ensures the payment of the debt.

1182. Supposing

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1182. Supposing the goods bailed out, and the trial comes on, how does that trial proceed; is it in the same form as an ordinary civil bill case, or is it by declaration and pleading, as in the superior courts?—By the common course of a civil bill.

1183. Can you say whether there is any peculiar authority in the charter of the manor of Kilrush, allowing that course to be taken?—I cannot say; I have not read the charter.

1184. Are you acquainted with any other manor courts in which the attachment process exists?—I believe it to exist in all the manor courts of Ireland; I do not know to the contrary.

1185. Have there ever been any disturbances in consequence of the execution of the attachment; any rescues?—Yes.

1186. Have many cases of that kind come under your knowledge?—Yes.

1187. Do the people ever, in practice, mistake this process of the court for a final decree?—I have not known an instance of that; the proceeding by attachment is resorted to only in extreme cases, and consequently very unfrequent.

1188. Have they ever received the goods taken by attachment?—I have never heard of that; the parties making the distress upon those occasions generally come well prepared to prevent a rescue, but I have never heard of an attempt.

1189. Does a court leet sit in this manor at Kilrush?—It has not sat in the manor since I went there.

1190. For how long a period is that?—A year and a half.

1191. Is it not having sat complained of?—I think not; the jurisdiction is so given to magistrates at petty sessions, which would otherwise be entertained by this court leet, that there have not been any complaints which I have heard.

1192. When the court leet did sit, what were its functions?—In the regulating, as it were, the amount and value of the damages in the manor committed, the number of beasts constituting what is called a collop; the grazing of land is let by so much a collop, and they regulate the number constituting a collop at those courts leet; it goes so far as to regulate the markets.

1193. How does that regulation of custom as to grazing come under the jurisdiction of the court leet?—I am not aware, unless it be constituted by charter.

1194. Even if it were regulated by charter, what is there to oblige the inhabitants of the manor to follow that custom?—The covenant in their lease from the lord of the manor is, that they shall do suit in the several manors; that obliges them to adopt those rules which are laid down by the lord for their benefit.

1195. Do they regulate any other matter?—Yes; I rather think that those courts leet were the origin of suits by petty action, of which I spoke on the former day; I think they regulated what amount of debt a person could decree on his own oath, and so instituted the action called the petty action of the court.

1196. In other words, you think they took themselves the functions of the Legislature with regard to the law for the recovery of small debts within the manor?—I think they did so.

1197. Are the agreements for the grazing of cattle, and those other things you have referred to, under the decision of former courts leet, still considered to be in force, and still attended to in practice?—I should think so, inasmuch as the amount and number of beasts constituting a collop in one manor may be different in the next, and that being the case, I should rather think it was the result of an arrangement made heretofore by the courts leet in the several manors.

1198. Are you sure that throughout the same manor the amount is the same?—In the same manor the amount appears to be the same throughout.

1199. Have you any positive knowledge upon that subject?—Indeed I may say I have; I have not known anything to the contrary.

1200. Not having been there yourself when the court leet sat, do you state what you have mentioned respecting their customs and arrangements from a general knowledge of the country?—Yes; and arrangements of the same description entered into and kept in other manors in the county of Kerry; for instance, a mare and foal in one manor may be called a collop, in another it may be called two collops, and even in a third manor may be called two collops and a half.

1201. Is the value charged for a collop in grazing considered a fixed sum?—It depends upon the nature of the land; and I think this arrangement of the value

value of the collop is entirely regulated by the kind of land that the jury have to deal with.

1202-3. In the court leet generally, what sort of juries are appointed?—The most substantial farmers about the country, who are always very punctual in their attendance on that inquiry, for their own sakes.

1204. Who presides at the court leet?—The seneschal.

1205. In the court of Listowel is that court used?—I have not known it there; but I have in the court of Ballylongford; and in that of Carrick Foyle, otherwise called Roxburgh, it is used; my brother was seneschal of that court, and he held the court leet.

1206. Supposing that the Legislature should determine to preserve the jurisdiction of the manor courts, are there any suggestions you would wish to make as to the improvements which might be made in those courts?—There are. I would suggest, in the first instance, that a competent person should be appointed to fill the office of seneschal; that that person should be taken either from the profession of an attorney or a barrister. I would suggest that he should have a decided power of keeping his court in proper order; the power of committing any person committing contempt in court, as at present possessed by the assistant barristers in their courts. I would suggest also, that there should be a heavy sum put upon the appellant in lodging an appeal, in order to prevent the lodging of vexatious appeals. I would suggest that the affidavits upon which the writ of distringas should issue, with all others the affidavits and records of this court, should be lodged with the clerk of the peace, to remain as records of the county. I would suggest that the fees payable should be lessened considerably; they are at present 2s. 6d., and I should not allow more than 3s. 6d. for a decree, and the same for a dismiss; and I would suggest a longer time to be given for the execution of that decree than is now, which is from court-day to court-day, to prevent the necessity of renewal.

1207. A renewal fee is charged now if the execution is held over one court-day?—Yes; and I would suggest that that renewal should not be taken out without an affidavit, to be framed in like manner as to that required by the 36 Geo. 3 in civil bill cases, of the debt being due.

1208. Supposing that the office were limited to legal persons, as you would suggest, do you think any provision ought to be made against their practising professionally in any district over which they preside judicially?—My opinion is, that no attorney of respectability could be got to take the situation if such a provision were made in the bill; I do not think it would at all interfere with his professional duties.

1209. Mr. Redington.] What inconvenience do you conceive would arise from the abolition of the court altogether?—Great inconvenience in the recovery of small debts, petty debts; persons would prefer giving up a small debt of from 1s. to 2s. up to 1l., rather than go to the quarter sessions court, where he may be kept for two or three days in attendance until his name be called on in alphabetical order as by the 6 & 7 Will. 4, whereas in the present case the business may be all done in one day with certainty; therefore, for the recovery of small debts, a decided inconvenience must ensue to the suitor.

1210. Do you conceive that the cheapness of a recovery in the manor courts is also a reason?—Certainly; a very powerful reason.

1211. Still you think that the fees in the manor courts at present are too high?—I do.

1212. What would be the effect of giving the magistrates the power of settling those small debts?—A most mischievous effect.

1213. On what ground?—Because they are generally as ignorant of the law as the seneschals, and cannot in any way understand the necessary pleading, unless a few who may be barristers, or the law with respect to certain points of evidence which may arise; their decision should be a record with respect to the rights of the parties; how could it be expected that magistrates should understand the laws of administration, for instance? They know nothing at all about those points of law and evidence which must necessarily arise in civil pleading.

1214. On the other hand, do not you conceive that unless a person very high in legal knowledge is put into the situation of seneschal, the present course is liable to the same objection?—The present course I altogether object to; and I should say, from my knowledge as an attorney in the practice of civil bill courts, which take under their jurisdiction the recovery of those difficult actions, that

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the magistracy as at present constituted could never be got to understand those knotty points.

1215. *Chairman.*] How long have the knotty points they administer been confined to civil bill courts?—Ever since they were first constituted; but as a proof of what I was saying, even in the Replevin Acts, the power given to magistrates was found not to work, in consequence of their total ignorance of the law.

1216. To return to the suggestion which you have made with regard to persons practising professionally in their own districts; you have stated that you see no objection to such a course; the last two or three Governments which have administered the affairs of Ireland appear to have seen objections to such a course?—I was not aware of that.

1217. Are you not aware that some years ago the assistant barristers used to be allowed to practise as barristers in the counties in which they administer the law?—Yes; I am aware of that.

1218. That power was afterwards taken from them, and there was a restriction placed upon them?—Yes.

1219. Since that, another restriction has been placed, which prevents assistant barristers from presiding in any county on the circuit on which they practise?—Yes.

1220. From all those regulations, it would appear to be the opinion of Government, that there is an unseemliness in the union of the two characters, in the same place, of an advocate and a judge?—Yes.

1221. Is not the same objection at least as strong when you come to consider the local jurisdiction of a manor court, and the practice of a professional man in the district to which the manor court belongs?—I do not think it is quite; the reason is this, that a barrister is put into a different situation altogether in his practice to an attorney; the attorney's duties are another description of thing altogether from those of the barrister, and upon that account I do not think that there is the same objection to attorneys practising within their jurisdiction as barristers.

1222. What is the difference?—I cannot exactly bring a case up at present.

1223. *Mr. Redington.*] Do not you consider that an attorney practising in a district, and afterwards becoming an advocate in a court over which the attorney presides, from the nature of the attorney's profession, there would be much greater objection to his being an advocate, and presiding over a court, than there would be to a barrister being an advocate and presiding in a court, from the circumstance that he is more intimately connected with the affairs of his clients?—There should be a restriction, that he should not be engaged, in that particular case, on either side, on any appeal that might be lodged against his decision; that would provide a remedy.

1224. If there were objections to a barrister practising in a district in which he also presides at a court, do you not think that the objection is still stronger from the nature of the attorney's profession?—No; I cannot see why it should be stronger.

1225. *Chairman.*] The barrister in the case in which he is concerned, does not communicate directly with the suitor, but with the attorney?—Yes.

1226. The objection to the system formerly was, that it tended to create a suspicion of favouritism towards particular attorneys, on the part of the assistant barrister; those attorneys might be concerned for anybody?—Yes.

1227. An attorney who practices communicates directly with the suitor?—Yes.

1228. Supposing a suitor to come into court, and the same impression of favouritism, erroneous or just as it might be, to prevail, would not the suspicion, when directed towards a particular suit, be much more injurious to the ends of justice, than it would be if it was merely favouritism towards a particular advocate?—I cannot think so; I think an attorney who would be in the situation of judge in his court, taking the usual oath that he would do to all suitors in his court ample justice, never would be influenced to depart from that rule or that oath in any matter which came before him, no matter who the suitor was; and that class of persons who would come into the manor courts for the trifling amount of debt they would seek to recover, could never be an inducement to an attorney to depart from the moral obligation he would feel himself under as a judge.

1229. The question does not suppose that one in a hundred would do so; but might not an impression of that kind go abroad among the uninstructed people, which would be very prejudicial to the ends of justice?—Certainly; erroneous impressions

impressions may go out; but I think the benefit of such a thing would be greater than the injury felt, I mean the benefit of the court being conducted by competent persons.

1230. In a remote country district, would not an attorney who became seneschal, almost monopolize the business of that district?—I do not think it would interfere with his civil bill practice one way or another.

1231. Would it not increase his civil bill practice?—No; I use the word interference in that light, and for this reason, the class of people that come into the manor courts come in only for certain small debts, and really where there is such a choice of attorneys to be had in the civil bill court, they will always go with their case where they think they can get the best value for their money.

1232. Mr. Redington.] Are the cases brought before the manor courts generally debts of long standing?—No, they are not; I have known but very few cases indeed of long standing.

1233. Are they not very often three or four months?—Yes, certainly; that is not called long standing in Ireland.

1234. The efficacy of the manor courts, in consequence of their being often held, you conceive to be an argument in their favour?—Certainly.

1235. It is a mere point of expense?—Yes; and the inconvenience of attendance.

1236. Is there not the same legal knowledge required in a manor court, in respect to the question of administration, as in the barrister's court?—There is.

1237. A barrister must be a lawyer of six years standing?—Yes.

1238. Do you think an attorney might be allowed to preside over a court where the same legal knowledge was required, though he was only an attorney of a few years standing?—I do not, and for this reason; I only used the argument of administration by way of example; the assistant barrister's court has such a very extended jurisdiction, and is regulated by so many statutes; the most difficult points of law are there brought forward and discussed. It might require very great knowledge to fill the situation of chairman with propriety; it is not so in the manor court, for they have not the power of trying cases to the same extent and importance.

1239. They do not require the same legal knowledge?—No.

1240. Then where is your objection to giving magistrates jurisdiction?—The magistrates know nothing at all of the law. I do not say that legal knowledge is not required, but by comparison with the assistant barristers' court, that there is not that extent of knowledge required to conduct a seneschal's court which there is to conduct an assistant barrister's court; and again I would recommend an appeal to the assistant barrister from this court.

1241. Your great argument in favour of the continuance of manor courts is, that it is necessary to have some other court to take up the small sums, which would occupy too much of the time of the civil bill courts?—Yes, and put the suitors to less expense in recovery.

1242. Strictly speaking, a question might arise in the manor courts which would require the same legal knowledge as those in the civil bill courts?—Yes, there is no doubt of that; then the utility of an appeal would arise; I should say that frequently such cases as that arise even in the assistant barrister's court, and I have known many assistant barristers recommend the party to appeal against the decision he gave, which appeared to me to arise from a doubt of its accuracy.

1243. Do you not conceive the evil you consider it necessary to remedy might be remedied by making the assistant barristers sit oftener than they do now; fewer cases would then come before them, and they would have more time to decide?—That would be virtually doing away with the necessity of manor courts altogether.

1244. Do you not conceive that would be preferable to establishing a second court in a county?—Yes; but I question whether, unless powers were given to assistant barristers, which they have not at present, it would be right to set aside certain manorial rights, which I look upon as the right of the inheritor of the soil; it is a part of the freehold of the lord of the manor, I conceive.

1245. You consider that compensation ought to be given for the abolition of them?—Yes.

1246. To whom would the compensation belong?—To the person filling the situation of seneschal.

1247. He is paid only by fees now; if there are no cases he gets nothing?—Just so; but there has been generally litigation in those manors, and there has

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been a certain emolument realized by the stewards; when the lord of the manor had appointed a seneschal, who had filled this office until he had grown grey in it, and wasted that time he might otherwise use more profitably, it would be hard then to deprive him of his situation without any pension or remuneration; the office he has held so long is a part of the freehold of his lord.

1248. His salary is derived wholly from the fees in each case?—Yes, but still it is a salary and emolument, and in many cases no inconsiderable one.

1249. *Chairman.*] Do you think the lord of the manor would be entitled to a remuneration for the loss of the patronage, supposing the court abolished?—Not a single penny; for the power given to him is for the purpose of settling the disputes of his tenantry, which, I think, every lord of the manor should do; and I consider it would be a hardship upon those persons who have been in the situation for many years, to be deprived of their office, and the emoluments arising from it.

1250. Are there any further suggestions you wish to make?—Yes; I would suggest that the same description of oath which is put to assistant barristers in the civil bill courts, should be administered to seneschals on their appointment, to be filed in the clerk of the peace's office, that they will do equal justice to the parties in their courts.

1251. *Mr. Redington.*] In case of an appeal, you have recommended lodgment; on giving notice of appeal, do you not think it will be much fairer to allow the judge who tries the appeal to give costs against the party?—No; for this reason: I have found appeals from these courts to be lodged for the purpose of gaining time; that is done at a trifling cost, I believe it is a shilling; the defendant may keep the plaintiff out of his debt, perhaps to his ruin, for five or six months, by the simple lodging of his appeal; immediately before the assizes he will give him notice of withdrawing his appeal and paying him his debt, and the plaintiff thus suffers an absolute loss; as a remedy for that, I think an oath should be administered, as recommended on the last day I gave evidence.

1252. Do you recommend a lodgment to be made by the party appealing?—I think it would be a very good thing; but I think the oath I suggested, and the increase of costs on the lodging of the appeal, would answer all ends.

1253. *Chairman.*] Supposing your suggestion were to be adopted, confining the seneschalships to attorneys or barristers, what do you think would be the proportion of attorneys who would become seneschals to that of barristers; would the number of attorneys be greater or less?—I think the number of attorneys would be greater.

1254. Have you any doubt upon that subject?—I have not.

1255. Do you know of any large district of country over which there are no manorial courts?—I do not; they are almost in every part of the south of Ireland.

1256. Have you ever been in the neighbourhood of Tralee?—I have.

1257. Is there any manor court there?—At Abbedorney, I believe not nearer than that.

1258. At Ardfer?—Yes, and Ardfer.

1259. If your suggestion be adopted, would it not be desirable to extend the jurisdiction of small debt courts to any districts over which no other courts at present exist?—Undoubtedly of very great use; and, if possible, where there are two or three small manors, to bring them under one seneschal, if the clashing of the several privileges of the lords of these several manors would not be an objection.

1260. Do you wish to make any addition to your answer to question 1166, asked you on a former day?—I do. I do not so much complain of the frequency of appeal, as of the loss suitors are put to by reason of being kept out of their money by vexatious appeals, sometimes for five months, without any probable reason to believe the appellant would succeed upon the trial; and I have frequently found, indeed I may say in nine cases out of ten, that the debt is paid immediately prior to the assizes, and a notice served withdrawing such appeal; for this reason I recommend the affidavit I have alluded to.

[*The following Paper was delivered in.*]

ENTRIES each Court-day in the Manor of Killultagh.

Entries.					
19 April 1837	-	-	-	-	50 - - Sessions in Belfast.
10 May	-	-	-	-	31
31 D ^r	-	-	-	-	31
12 July	-	-	-	-	19 - - Sessions in Belfast and Antrim.
23 Aug.	-	-	-	-	71
13 Sept.	-	-	-	-	27
4 Oct.	-	-	-	-	36
25 D ^r	-	-	-	-	41 - - Sessions in Belfast and Antrim.
15 Nov.	-	-	-	-	56
6 Dec.	-	-	-	-	56
27 D ^r	-	-	-	-	41
17 Jan. 1838	-	-	-	-	45 - - Sessions in Belfast.
7 Feb.	-	-	-	-	64
1 March	-	-	-	-	53
21 D ^r	-	-	-	-	69
					692

N.B.—The quarter sessions in Belfast commence 3d April.

In the former returns of this Court, the greatest number of entries in any one year only amounted to 526, which shows an increase of 166 entries on the above return, although there will be another court held before the termination of the year commencing from last return.

Extracted from the Records of the Court, 2d April 1838.

Lisbon, April 2.

(signed)

Robt. Gregg,
Seuschal.

Jovis, 3^a die Maii, 1838.

MEMBERS PRESENT.

Mr. Bridgeman.
Mr. M. J. O'Connell.
Mr. J. O'Connell.

Mr. Jephson.
Mr. Rodington.
Mr. Villiers Stuart.

MAURICE JOHN O'CONNELL, Esq., IN THE CHAIR.

Mr. Thomas Cochrane, called in; and Examined.

1261. Chairman.] OF what profession are you?—An attorney.
 1262. Where do you reside?—At Ballyconnell, in the county of Cavan.
 1263. Do you practise locally in the county of Cavan?—I do.
 1264. In the quarter sessions courts?—Yes.
 1265. Do you ever practise in the manor courts in the county?—I have not for these many years.
 1266. In the course of your business have you had any experience of the proceedings in manor courts up to the present time?—I have.
 1267. If I understand you rightly, you have formerly practised in them?—I think I was three or four times in the Ballyconnell courts, professionally concerned.
 1268. What is the name of the court at Ballyconnell?—The Manor of Gwilliambrook.
 1269. Are you acquainted with any other manor courts in any other part of the county?—I am acquainted with the manor courts of Clonkine and Cortabber.
 1270. Any other courts in that county?—Not that county; I was particularly acquainted with one in the county of Fermanagh, immediately adjoining the county of Cavan; it comes within a mile of where I resided.

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1271. What

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1271. What is the name of that?—The Manor of Laggan.
1272. Is that court still in existence?—It is not.
1273. How long has it fallen into disuse?—I should think about a year and a half, or two years at the furthest.
1274. Is there no seneschal existing of that court?—No; there was a seneschal of the name of Surplice, but the property was sold by Mr. Balfour to Mr. Creighton, and Mr. Creighton, immediately on purchasing the property, discontinued the court.
1275. Mr. *Villiers Stuart*.] Did the seneschal die?—Not until after the property was purchased. In consequence of the loss of the court, Mr. Creighton, I heard, allowed him a compensation of 10*l.* a year.
1276. By way of pension?—Yes.
1277. *Chairman*.] Did he consider that a fair compensation for the loss of his office?—I think so; from his rank in life, I am sure he did.
1278. It appears from the return that the jurisdiction of the courts you mention, in the county of Cavan, does not extend beyond 40 *s.*?—The jurisdiction of the court of Ballyconnel extends to 5*l.*; but it has never been exercised beyond 40 *s.* within my recollection; it extends, by the patent, to 5*l.*; it is the only one that does so in the county of Cavan.
1279. By whom was that granted?—It was granted in the 3 James 2 to Meridith Guillem, esq.
1280. Besides the court leet and court baron, does the grant use the term "court of record" also?—It does.
1281. Does it give a power of attachment against the goods?—It does, and a *capias* against the person also.
1282. Is that process against the person acted upon?—It is not; there is no prison within the manor.
1283. The seneschal, in his return to this Committee last year, states "there has not been any court held for the last four years, as there was no business. The quarter sessions are frequent in this division of the county, and are held twice each year in Ballyconnel (where the manor court was held), and the facility this affords to recover sums of small as well as large amount has removed the business, formerly done at the manor court, to the quarter sessions;" does that consist with your knowledge of the fact also?—Not precisely; I understand the reason that no court was held, was in consequence of some proceedings which I took against a plaintiff who took some goods under an attachment; and the assistant barrister gave a decree, in favour of the defendant, in the manor court below, and no proceedings have been had since.
1284. What was the nature of that case?—It was one of those cases where an attachment was granted against the goods; and the case I brought was heard in the October sessions in 1833, before Mr. Major, then an assistant barrister in the county of Cavan.
1285. Did that case proceed to a verdict in the manor court?—It did; there was a verdict for the plaintiff in the attachment.
1286. Upon what grounds did you get a decree for the defendant in the assistant-barrister's court?—The ground was, that they seized property belonging to another person; and, notwithstanding an affidavit made before Mr. Jones, a magistrate of the county, since deceased, they persevered in keeping the goods until the decree was pronounced: after they persevered in keeping them, I advised the defendant not to appear in the court, and not to make any defence to it.
1287. And did he appear?—I should rather think not.
1288. Mr. *Villiers Stuart*.] Was there any application to hail the goods?—There was not. I had four copies of the affidavit made altogether; one by the party to keep, one was served upon the plaintiff in the attachment, one upon the seneschal, and one upon the bailiff.
1289. And what notice was taken of that?—There was no notice whatever taken of it; they persevered in keeping the distress on.
1290. *Chairman*.] Of course you did not hail the goods?—No, I did not, because that would be acknowledging the goods to be the property of the defendant.
1291. How were the goods seized; were the goods in the occupation of the defendant when they were seized?—Not in the occupation of the defendant in the attachment; they were in the occupation of my client.
1292. Then

1292. Then did they mistake the person?—I should think not; they could not have mistaken the person; they mistook the property; but, after the affidavit was lodged, I conceived they ought to have given up the goods. The seneschal's brother is a magistrate, and I sent the party to make an affidavit before him; but he did not wish to interfere in it.

1293. How came the goods to be seized as the property of the defendant?—The goods were the property of his mother; the son was a young man living in the same house, and the attachment was against him.

1294. Mr. *Jephson*.] Both parties lived in the same house?—Yes, I believe so.

1295. And there was a suspicion of a fraudulent collusion, I suppose?—Yes, I suppose there was in that case.

1296. Mr. *Villiers Stuart*.] In such a case as that, could not the party obtain a replevin?—At that time replevins were very expensive; you must go into the Court of Chancery, and it would cost 6*l.* or 8*l.*

1297. Is that the case now?—No; but the assistant barristers have determined that it only applies to rent.

1298. Mr. *Jephson*.] Could not the sheriff give a replevin?—That is very seldom done in the county of Cavan.

1299. Would he not be bound to grant a replevin in point of law?—I do not know whether, in point of law, he would be bound or not; I know he very often refuses.

1300. Mr. *Villiers Stuart*.] But in the case of goods improperly seized, what remedy has the party?—He may bring an action; that is the only remedy I could point out to the party in that case, and they obtain the value of their goods from the party taking them.

1301. *Chairman*.] That is the remedy generally recommended by professional gentlemen in such cases?—That was the least expensive.

1302. What was the decree the party got?—I think 2*l.* 10*s.*

1303. You seem to trace to that reversal of an illegal decision of the manor court, the discontinuance of all proceedings in that court?—I do; I remember the bailiff, in coming up to produce the decree as his justification, was told by the assistant barrister that the decree was no justification for what was done, and, in going down off the table, he said, "Our court is broke."

1304. Mr. *Jephson*.] That is to say, the assistant barrister said, "A decree against A. was no authority for seizing the goods of B."?—Precisely.

1305. Might not that dictum of the assistant barrister be equally applicable to goods seized by the bailiff under a civil-bill decree, or a sheriff's decree?—Yes, it very often happens. In the last sessions of Cavan, I saw the assistant barrister give large damages where a party sold under a civil-bill decree.

1306. Similar mistakes frequently occur under the decrees of other courts?—Certainly it may, and does very often occur, under decrees of the assistant-barrister's court; it is a thing for which a remedy is very much wanted.

1307. *Chairman*.] But in this case, was not confidence shaken in the seneschal as well as the bailiff, from his refusing to entertain applications from your client previous to the case coming on?—I must think so from his not holding the court since; I have not heard of any application to him since to hold one.

1308. How often did he hold the court before?—Generally every three weeks.

1309. Did he hold courts lost?—I heard that his brother held one formerly, for the appointment of a weigh-master to regulate weights, and a constable, but not for 20 years. The present seneschal had only acted once or twice, I believe, prior to the time the court was discontinued.

1310. Mr. *Villiers Stuart*.] Was there much business in that court previous to the time you have mentioned?—It declined very much of late; I think the average number of cases entered was 9 or 10.

1311. Mr. *Jephson*.] Was the decree of the assistant barrister pronounced against the seneschal or the party?—Against the plaintiff in the attachment.

1312. Then, in fact, the error committed was the error of the party in pointing out to the party that the goods belonged to the defendant?—I conceive, in that transaction, the bailiff was as much to blame as the plaintiff in the attachment; he lived contiguous to the party, and must have known the fact.

1313. How would the sheriff have acted in such a case? Supposing the sheriff had seized the property of the wrong person, under a misrepresentation by the party who had pointed it out as the property of the defendant?—If the sheriff

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seized under an execution out of a superior court, he would hold a court of inquiry himself, after the claim was made, as to whose property it was. The assistant-barrister's decrees are executed by special bailiffs.

1314. Then, in case of the sheriff's bailiffs taking goods under similar circumstances, would he not be very much guided in his conduct by the bail tendered, on what he conceived to be the fairness of the representations of the party claiming the goods?—The sheriff's bailiffs under an execution go accompanied by the plaintiff, or some person to point out the property, and if any of the property seized is claimed by affidavit, the sheriff holds a court of inquiry in the town.

1315. *Chairman.*] But the special bailiffs act directly at the peril of the plaintiff?—Yes, and not at the peril of the sheriff at all.

1316. Is that set forth in his warrant?—It is.

1317. *Mr. Villiers Stuart.*] From your acquaintance with manor courts, have you ever known the seneschal to hold any inquiry where there has been such a claim to property seized?—I have known it done in Killesandra, in the manor of Clonkyne and Cortubher.

1318. But it is optional with the seneschal; he is not bound to do so?—No, he is not; there is nothing in the law binding him to do so.

1319. In these attachment cases, after the goods are bailed, what is the proceeding then had?—Immediately after the attachment issues, the case is heard the next court day upon the return of the attachment. The only court I ever knew, where I conceived it in any way gave the defendant a proper opportunity, was the court at Swanlinbar, in the manor of Parsonstown, and that court is also given up. The property has been sold by Mr. Thompson, the lord of the manor, to Mr. Burrows.

1320. And the new purchaser in that case has given up the court?—Yes; the court was held for a certain time, but now Mr. Burrows does not wish the court to be held.

1321. In the case of an attachment at the time the goods are seized, and either detained in custody or bailed, are any further proceedings held by civil bill, or by pleadings, as in a court of record?—In the court of Swanlinbar, the court day after the goods were bailed or kept in custody, there was a declaration filed, stating the cause of action, whatever it was; the defendant then had till the next court day to produce his witnesses and enter upon a defence; but neither in the court of Gwilliambrook, where I live, nor in Killesandra, is that course adopted at all.

1322. And then they added the civil-bill processes to the attachment?—They did at Swanlinbar.

1323. Have you ever known any point to be raised upon the legality of such a proceeding?—On the 31st of March last, there was a man of the name of Wiggins residing near Killesandra; a cart of his went into Killesandra, and was seized under one of these attachments; it was on the evening of the Wednesday or Thursday the court was held; the case was proceeded upon; there was a decree against him, and they held the cart in custody; I brought a civil-bill process against the sheriff, a man of the name of Kenny, for the value of the cart, at the sessions which were held in Ballyconnel on the 3d April, and on the morning on which the trial was to take place, which was Thursday morning, the parties gave up the cart, paid him all his costs, and the plaintiff forgave the debt.

1324. What was the amount of the debt?—I think the debt was 16s.

1325. I do not mean generally illegal practices; but the legality or illegality of that practice of mixing up the statutable jurisdiction by civil bill, with common-law jurisdiction created in the charter, by attachment?—I cannot say as to that; I never had any opportunity of knowing whether it was legal or illegal.

1326. It is a common practice in that part of the country?—It is the practice of those two courts.

1327. *Mr. Villiers Stuart.*] What was the cause of the Swanlinbar court ceasing to exist?—The first cause was, that Mr. Thompson, the late lord of the manor, gave a deputation to the Rev. Mr. Grattan, who was then his agent; in the deputation he did not put the words "during his will and pleasure." When he was removed from being agent, Mr. Thompson gave a deputation to a Mr. Johnson, who is now a lieutenant in the 70th foot, I think. Mr. Johnson, on going to act, was served with a notice by Mr. Grattan, that, under the opinion of counsel, Mr. Thompson had no power to transfer his deputation. I think immediately after there was an order from the bishop, that Mr. Grattan, being a clergyman, should

should not act. There were some complaints made about it, and the court fell to the ground.

1328. Is Mr. Grattan alive still?—He is. He would never give up the deputation of Mr. Thompson; but I understand he would give it up to Mr. Burrows, but Mr. Burrows would not appoint a seneschal, and he has not upon other property he purchased also.

1329. It was the lord of the manor then who objected?—It was there, and in the manor of Loggin also, which is a very extensive one.

1330. Mr. Jephson.] In point of fact, the lord of the manor appointed another seneschal in Mr. Johnson?—Yes.

1331. And that seneschal could not act, inasmuch as there was another individual holding the deputation?—Yes.

1332. And the lord of the manor is restrained from appointing another?—No, the property has been since transferred.

1333. Who is the present lord of the manor?—Mr. Robert Burrows, of Stradown House.

1334. If Mr. Grattan's deputation was still valid and in existence, the present lord of the manor would have no more right than Mr. Thompson to appoint a seneschal?—Certainly not; that was the opinion of counsel at that time.

1335. Mr. Villiers Stuart.] Have you no reason to know of the present lord of the manor's objections to the court being held?—Yes, I have; he purchased some other property which was adjoining to a part of the manor of Coranary, and I understand he withdrew the deputation, and would not allow the seneschal to act in his part of the manor.

1336. Chairman.] He purchased part of the manor?—Yes; that very often happens. The manors I have been speaking of have been divided.

1337. Have the manorial rights been divided also?—I cannot say how that is.

1338. Mr. Jephson.] In the other manor you speak of, did Mr. Creighton, in refusing to appoint a seneschal of that manor, act upon his own individual opinion, or was he urged to the step he took in not appointing a seneschal, by the representations of the inhabitants of the manor?—I am sure that what he heard of the conduct of the seneschal, and the manner in which the business was conducted there, made him not appoint another.

1339. Mr. Redington.] Has there been any complaint on the part of the inhabitants of any inconvenience from these courts being discontinued?—No; on the contrary, I think they are very glad of it. Mr. Creighton has established a much better court upon his property.

1340. Chairman.] Are any of these places far from the quarter sessions town?—Yes; part of the manor of Parsonstown is very far; it runs into a district called Glangevelin, which is 18 miles from Ballyconnel.

1341. Mr. Villiers Stuart.] I think you say Mr. Creighton has established some other court?—Yes, he has.

1342. What kind of court?—He has established what he calls "An Estate Court."

1343. What is the nature of that?—Any of the tenantry upon the different estates that have any complaints to make with regard to trespasses, or any of those matters, lodge their complaints with one of the bailiffs of the estate; he forwards it to Mr. Creighton's clerk, who then issues a notice to the parties to attend at the court, at which he and his agents and agriculturists sit; and there they settle the matter; they hear both parties, and have the matter arranged between them without any costs. Any criminal matters he refers to the petty sessions at Darrylin, which he attends himself. It gives a great deal of satisfaction on the estate, and has caused a great decrease in the petty sessions business at Darrylin in consequence.

1344. Those are matters in which both parties are tenants upon Mr. Creighton's estate?—Yes.

1345. Any dispute between them and their neighbours who are not tenants would go to the petty sessions at Darrylin?—It would, of course; his property extends very far though.

1346. With regard to these manor courts, in what places were they held?—The one at Ballyconnel was invariably held in public-houses; in three different public-houses at three different times; I have summonses here, mentioning the names of the different houses.

1347. Will you deliver them in, if you please?—[*The Witness handed in the same*].

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1348. Ballyconnel is a quarter sessions town, is it not?—It is.

1349. How long has it been so?—Since the assistant barrister's court was established; before my memory.

1350. There has always been a court-house there?—There has. That Henry Thomas Watt, whose name appears in one of the summonses as a publican, was the keeper of the court-house.

1351. Could that seneschal easily obtain the use of the court-house to hold the court in?—Yes, his brother held the key. My stable was the court-house before the present court-house was built; that is, before the year 1833; and his brother lived in the house I now live in for some time, and had the key of the court-house.

1352. Mr. *Villiers Stuart*.] Then it was you who turned the court-house into a stable?—It was the county rather; they built a very fine court-house in Ballyconnel, and then the old house was disused.

1353. Mr. *Jephson*.] What sort of court-house was used before the present house was built?—It was built in the yard of my house, for the use of the sessions, and the persons who lived in the house had the use of it between the intervals of the sessions.

1354. Then it was the property of the person who occupied the house?—No, it was the property of the county, who paid rent for it.

1355. It was rented by the county for the use of the sessions?—Yes.

1356. Then in the intervals between the sessions, was it made use of by the occupier of the house?—That Mr. Watts up to the time of the alteration was the court-house keeper, and he was also keeper of the new court-house, but the key was generally left with the occupier of the house I live in, and it was used as a barn, or for other purposes.

1357. But it was only used for the purpose of holding the quarter sessions in?—No; the petty sessions was also held there every week, and the road sessions.

1358. But are you aware that the seneschal has no right as seneschal to make use of the county court-house?—Yes; but I am quite aware he could obtain the use of that court-house if he thought proper.

1359. *Chairman*.] The house at the time you speak of was occupied by the brother of the seneschal?—It was part of the time that Mr. Watts also lived there; not at the time he kept the public-house, but for a year or two before. I have also a decree of that court in the year 1795.

1360. In these public-houses where the court was held, was there generally sufficient room to accommodate the court and the auditors?—In Smith's house there was a large room where the court was held, to the left of the door as you went in, a pretty large room; the other houses were rather small.

1361. Was order well kept?—Pretty middling.

1362. Have you been present at the proceedings sufficiently so as to give an opinion whether it was a disorderly court or otherwise?—I have seen it a disorderly court; it was invariably the rule there, whenever each party got a decree, that he was obliged to lay down from 10*d.* to 15*d.* for whisky.

1363. Was any name given to that payment?—It was for punch.

1364. It had no legal name?—No; the verdict was never read to the plaintiff, only he was told he had a verdict, and he was never told the amount till he laid down the 10*d.* or 15*d.* for whisky.

1365. In the presence of the seneschal was that done?—It was done by the seneschal.

1366. To whom did he give the amount?—To the jurors and to the plaintiff.

1367. I mean who was treasurer to receive the money?—He received it; it was laid on the table; that William Smith the publican, who kept the house, was generally foreman of the jury.

1368. Were the jury ever summoned?—Never to my knowledge; I am sure they were not.

1369. Were they taken from the by-standers?—There were perhaps half of them who were pretty regular attendants at all times, in consequence of the sport they had in it; I have seen the bailiff stand at the door, it was generally a market-day, and call indiscriminately any persons he saw in the street. I am sure there never was a summons issued.

1370. Have you known any of the bailiffs ever issue any summons?—I am sure there never was any written summons sent.

1371. Were the costs in those courts ever reduced in consequence of no sum-

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mons being issued?—No; the costs were always 5s. 11d. or 5s. 6d. of the present currency.

1372. You are aware that, out of that, 1s. is allowed to the bailiff for summoning the jury?—I am.

1373. And though the duty was not done, the fee was charged?—Yes; there was 1s. 6d. charged for the cost of the summons; the seneschal kept 6d. of it for the bailiff for serving the processes; he then charged 2s. upon the entry of the process, and 2s. for the decree.

1374. Have you been acquainted with the courts which are in existence in your neighbourhood, the courts of Clonkyme and Cortubber?—Yes.

1375. Is the same practice followed there, holding the court at public-houses?—No; the court is held in the market-house of Killesandra. The seneschal was the keeper of a public-house till within the last 12 months, and Mr. Southwell made it be held in the market-house.

1376. How long has it been held in the market-house?—Always within my recollection; it was held in a private house by Mr. Ellis, the late seneschal, but not in a public-house.

1377. Who is the lord of the manor?—Mr. Southwell.

1378. Mr. *Villiers Stuart*.] Have you much acquaintance with that court?—Yes, I have.

1379. How does it work?—There is not much business in it; I should say the number of entries would be seven, eight, or nine in a day. The seneschal does not hold the court constantly in Killesandra; for the convenience of the people he goes up to Scrabby, which is about six miles from Killesandra, at the extreme end of the manor.

1380. Is it a large manor?—It is a large manor; I should say it is about six or seven miles in length, and, I should suppose, four in breadth.

1381. It contains a considerable population?—It does, and a very respectable population too.

1382. Is the seneschal a respectable person?—In point of honesty he is a very respectable person, in my opinion; but he is very old, and I think not much versed in proceedings of that kind.

1383. That is a very small number of cases in proportion to the size and the population of the manor?—They are not poor people, and that perhaps may account for it; when the process is issued, they generally settle it.

1384. Do you know whether there are many cases of debts from that district tried at the assistant barrister's court?—A great number.

1385. Then you suppose that they prefer the assistant-barrister's court to the seneschal's?—I am sure they do in every part.

1386. *Chairman*.] Are the majority of the cases that come to the assistant-barrister's court above 40s.?—Without taking an abstract of the clerk of the peace's book, I could not answer that; but generally I should think they are above 40s. The town of Killesandra is a good town, with a number of shopkeepers in it, and, if they bring civil-bill cases to the quarter sessions, they may as well bring small ones as large ones. They are now taken alphabetically, and each plaintiff's cases all come on together. That has been a great convenience, for a man knows now at what time to send his witnesses, and they are not kept as heretofore.

1387. Does the practice of paying a fee for drink prevail in that court?—I never heard of it; I made inquiry, and I am sure if it did I should have heard of it; it never did that I know of.

1388. Then connecting the fact, that in the court which is held at a public-house that practice prevails, and in the court which is not held in a public-house, though presided over by a person who kept a public-house, no such practice prevails, do you not think it important that these courts should not be held in public-houses?—Decidedly.

1389. Is there not a difference in the class of jurors in those courts held at public-houses and the jurors in other courts?—The people about Killesandra are respectable farmers, the tenantry of Lord Farinham and Mr. Southwell; they hold more ground and are more respectable than in the Ballyconnel district; it is a very mountainous district, and they are persons holding about 10 acres of ground each.

1390. Mr. *Villiers Stuart*.] Are the jurors of Killesandra generally farmers or town people?—I was speaking to the seneschal some days ago, and he complained

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plained to me that he could not get the town people to attend, even by summons. He said he should prefer the town people, as they were upon the spot, and they were very respectable people; he could find an excellent jury in the town of Killesandra; in fact, a great many of the shopkeepers are upon the record jury of the county.

1391. Is their objection to serving on the juries, that they do not consider the court very respectable?—No, I do not think it is; it is to save themselves trouble.

1392. They are not sufficiently interested in the proceedings?—They are not at all interested in the proceedings; of course, if they had any process themselves in it, they would not be eligible to sit.

1393. *Mr. Redington.* Do the shopkeepers in the town of Killesandra proceed for small debts under 40s. in the barrister's court in preference to the seneschal's court?—I think, since the Act amending that court, they do; there has been a great increase in the civil-bill business in our county since that time. I must mention, that since the 7 & 8 Will. 4, there has been an additional sessions held in the town of Cavan; it is held four times instead of twice a year. It was held alternately with Ballyconnel, now it is held twice a year in Ballyconnel, and it is now held in Cavan four times, in April and October also, as well as Ballyconnel.

1394. Then it would be no inconvenience to the public of Killesandra, if that court were abolished?—I think not; they are six miles from Ballyconnel on one side, and six miles from Cavan on the other.

1395. *Chairman.* Is there any division of the county for Ballyconnel?—There is a division for Cavan, but not for Ballyconnel.

1396. Where is the sessions held for the other division?—At Ballyborough and Cootehill.

1397. In giving that additional sessions for one division of the county, they have not subdivided divisions?—They have not; it is of the greatest inconvenience at present.

1398. Now a vexatious plaintiff may take a party from the extreme north-west of your county to Cavan sessions, instead of to Ballyconnel?—Yes; at the last October sessions for the county there were, I believe, about 200 processes for tithes brought to Cavan from a part of the county at the extreme end of it, called the parish of Killesna, adjoining the county of Leitrim; that is near 40 miles from Cavan, and Ballyconnel lies between; you must go through Ballyconnel to go to Cavan; and those people were brought there mostly for 1s., 1s. 6d., or 2s., the value of a year's tithes; I was concerned in defending some; and they were kept there from Sunday, having to enter their summonses on the Monday morning, and, being the letter L, they did not come on until Saturday, and most of the parties had no leases, and so were not liable.

1399. *Mr. Villiers Stuart.* You say those small sums you are speaking of were for tithes?—Yes, for tithes for one year; they owed no more.

1400. Was that for ecclesiastical tithes?—Yes.

1401. *Chairman.* In that court of Ballyconnel, where the practice of giving drink to the jurors prevailed, have you ever known also disorders to arise in consequence?—I cannot exactly say; the cases were generally not more than six or seven in number, and they had not time to get into disorder till after the cases were over, and then they generally had a whip, as it is called, an additional contribution among themselves.

1402. That was when there was a bad court?—Yes; of course, the quantity of drink depended upon the number of cases.

1403. I suppose there never was a case, however great the number of cases tried, in which any part of the funds was reserved for the next court day?—I never heard of it.

1404. Were the parties themselves ever partakers of the good cheer for which they paid?—Yes, the winning party was.

1405. Did the seneschal ever preside over their after deliberations?—I rather think not; the seneschal was a most abstemious, simple, inoffensive man as could be; I mean the brother of the present seneschal. He is now dead.

1406. But he allowed the collection for this purpose to go on openly in court?—He did allow it; but it is right I should mention, that within my memory I have heard persons say there was a court leet held there, at which, in former periods, respectable inhabitants of the manor attended, for the purpose of appointing a weigh-master, and overseer of weights, and a constable, at which there

was a leet dinner, and I rather think the usage came down from that; at all events, the seneschal himself was a very good man, and one of the most abstemious men that could be.

1407. Did the jury often retire to consider their verdict in any disputed case?—I never knew many disputed cases to be brought before them; at least cases that they were not able to settle in a few moments. The seneschal sat in the room with them after the room was cleared.

1408. The room was cleared for the jury to deliberate?—Yes, for a few moments; and the seneschal and the bailiff stopped in with them.

1409. Mr. Redington.] Used the seneschal to address them after each case?—No, I never heard him address them; I am sure I never did while I was there, whatever he might have said to them after the people left the room.

1410. Chairman.] Have you any reason to think he did speak to them then?—I have reason to think whatever side the seneschal took had great weight with the jury.

1411. Then, in fact, there were 14 jurors instead of 12?—Yes; and I think the seneschal and bailiff were as good as four jurors.

1412. And the judge, instead of charging them in open court, you have reason to believe addressed them in the jury-room?—I have reason to believe he spoke to them; I do not say he addressed them.

1413. Have you ever known them hold over two or three disputed cases till they went through the list, and deliberate upon them all at once?—No, I have not; they generally decided the cases one by one, except they were publicans' cases, where one witness would prove a couple of them, and they lie over till both were heard.

1414. Are the juries always of the full number of 12?—Always, I never heard of less.

1415. Are many of the seneschals that you are acquainted with magistrates of the county?—There is only one, Mr. Powell, seneschal of the manor of Coranary and Cootehill, who is a magistrate of the county of Clare.

1416. Mr. Jephson.] How is that court conducted as compared with the other courts you have described?—I can only speak from hearsay; I know it is held in a public-house. I can produce a decree upon an appeal from that court. *[The same sons handed in.]*

1417. Chairman.] Was there anything particular in that case from which you produce the decree?—Yes; and it is very much complained of, that in every case he charges a fee of 2s. for an attorney when no attorney attends.

1418. The statute allows a fee of 2s. to be charged?—Yes; but I think not against the defendants; for the statute says the costs shall be only 5s. 11½d. It is a fee that the party will be at the loss of.

1419. Is not that one of the inconveniences of having persons not acquainted with legal phrases, or the construction of Acts of Parliament, to preside over courts of this kind?—I should think so.

1420. Is that gentleman a respectable magistrate of the county?—His father was a most respectable man.

1421. Has he been long a magistrate in the county of Clare?—I think about eight years.

1422. May not a man be very intelligent and respectable as far as the discharge of his duty as a magistrate, and at the same time be ignorant of these legal niceties, which it requires some experience of the law to understand?—I think if a man attends to his duty as a magistrate, it would very much assist him in his duty as seneschal. I am in the habit of attending at the petty sessions, as I have been concerned for some years in excise cases as a solicitor, and I have not seen Mr. Powell attend the sessions more than once or twice.

1423. That gentleman is seneschal of the manor in the neighbourhood of Cootehill?—Yes.

1424. Mr. Jephson.] Do you not think the duties of a magistrate require as much knowledge in construing Acts of Parliament as the duties of a seneschal?—Yes.

1425. And yet you say this gentleman, who is a magistrate, is not qualified to construe an Act of Parliament properly?—Perhaps he might be, if he applied himself to it.

1426. Do you think we could have a greater security for the proper qualification of magistrates from their being taken from the same class as the magistrates are taken from?—No doubt they are sufficiently qualified. I may mention that

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Thomas Coghlan.
3 May 1836.

Mr.
Thomas Cockran—
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between the very same persons there was a second decree at a court held on the very same day, and the very same fees charged on the second inquiry, and the united debts only amounted to 21 s., and there was 18s. 4d. costs put on. The defendant lodged an appeal against both. The debt in one case was 13s.; that was reversed by the judge, and the other was compromised; it was for a matter of trespass.

1427. Mr. *Jephson*.] That was an appeal to the assizes?—Yes.

1428. Upon what grounds?—That the witness could not prove a shadow of a debt due from the defendant.

1429. Was any part of that appeal grounded upon the fact of the attorney's fee having been charged?—No; that fact was mentioned to the judge, but he said he had nothing to do with that matter.

1430. Who was the judge?—Mr. Baron Pennefather. He said he had nothing to do with it; there was another way of proceeding against the seneschal if he charged improper costs.

1431. What did he mean by that?—That he might bring an action against him.

1432. Did the party bring an action?—No; he was a very poor man.

1433. Might not that have been done by a process in the civil-bill court?—I think not, from hearing the opinion of Mr. Major, whom I conceive to be a very high authority. I brought an action against the seneschal of Killesandra by civil-bill, and Mr. Major said he could not entertain it.

1434. What was the amount in the action you brought against him?—£4. 12s. 3d.

1435. Mr. *Villiers Stuart*.] Then there is no cheap remedy for a party against whom too high costs are illegally levied?—It appears not.

1436. *Chairman*.] Was that court you speak of near Cootchill held at the same place as the petty sessions?—No, it is not; it is held, I believe, about three or four miles from Cootchill.

1437. But the seneschal resides as near to the petty sessions as to the place where the manor court is held?—No, the manor court is held, I understand, at a public-house near his gate.

1438. Have you been in the habit of attending at Cootchill petty sessions frequently?—Very frequently.

1439. And you state you never have seen him attending the petty sessions court?—Not to my recollection but once.

1440. Are there any other manor courts in the county of Cavan, that you are acquainted with, that have fallen into disuse?—There is another, the manor of Purnar and Doobally.

1441. Where is that situated?—In the Glangevelin and Doobally district, which lies below Ballyconael.

1442. In a district the most remote from the sessions town?—Yes.

1443. Mr. *Villiers Stuart*.] Within how short a time has that court been held?—I think six or eight years ago.

1444. *Chairman*.] Have you any information why it fell into disuse?—The seneschal died; and the manor being at that time the property of a lady who lived in England, the agent refused to appoint a new seneschal.

1445. Mr. *Villiers Stuart*.] Does the present lord of the manor reside in Ireland?—No, in England.

1446. Do you know on what grounds the agent refused to continue the court?—I think the feeling he had was, that the debts that were mostly sued for and recovered in that court were for illicit whisky, and he considered it encouraged the illicit trade very much.

1447. Were any of those decrees ever appealed from?—No, it was too far; they would have had to go 45 miles to Cavan, and for those small sums it would not be worth while; I never heard of an appeal.

1448. Would not the decrees have been set aside at once, if it appeared for a debt due for illicit whisky?—Certainly.

1449. *Chairman*.] Have you ever known those courts to be held in an unlicensed public-house?—I rather think this very court was held in an unlicensed house, for I believe there was not a licensed house in that district.

1450. Mr. *Villiers Stuart*.] Did you ever hear any complaints in this district of the poor people not being able to recover small debts?—Not the slightest; they all go to the quarter sessions; I heard great complaints of the way they were dragged up to Cavan, where the additional sessions were; but that is remedied now by Mr. Murphy, the assistant barrister.

1451. Did,

Mr.
Thomas Cooleman.
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1451. Did you ever hear of any complaints being forwarded to the Government of the seneschals in that part of the country?—I did not; I do not think it is likely they would be forwarded to the Government, as the seneschals are not Government officers; they are the local officers of the lord of the manor. I have heard of some persons applying to Mr. Southwell, with respect to the court of Killesandra, he being the lord of the manor.

1452. You have never heard of any of those gentlemen who have refused to appoint seneschals, being asked by the people of the country to appoint them?—I rather think they have not; I am sure they never have; the people complained very much, in all those districts, of that system of distraining their goods which was adopted there; and great hardship arose from it.

1453. Mr. Jephson.] What objection can the people of the country make to having near at hand a court at which they can recover the debts due to them, if those courts were properly conducted?—If they were properly conducted, there could be no objection; but they complain of the distringes issued by the seneschal, and their goods being taken off.

1454. They complain then of the attachment?—Yes; and I know with great reason in many instances.

1455. Have you ever heard complaints against the petty sessions?—I have heard people complain, as most men will who lose their case.

1456. Are not the same description of cases which are tried at the petty sessions, triable at quarter sessions?—There are a great number of wages cases, assaults, and trespass hills.

1457. In that district do you find that persons neglect the petty sessions, and wait for the quarter sessions to obtain their wages, or do they apply to the petty sessions?—I rather think they apply to the petty sessions.

1458. They apply to the petty sessions probably, because they are held more frequently, and are nearer at hand?—Yes.

1459. Supposing there were a class of debts which were not cognizable at the petty sessions, but were by the quarter sessions; if there were a court near at hand at which these debts could be recovered as easily as wages can at the petty sessions, is it not likely the people would have recourse to a court of that kind, as well as to the petty sessions, for wages?—Certainly; the convenience of the court, if properly held and conducted, ought, I should conceive, induce them to do so.

1460. Then the objections to the courts you refer to, apply more to the practice of them, than the principle of having local courts frequently held?—Yes, certainly.

1461. Mr. Redington.] Do you think it would be productive of inconvenience in the country, the not having a court more frequently held for the purpose of recovering debts, than a quarterly court?—I think a quarterly court quite sufficient; we have the sessions now six times a year in Cavan division.

1462. Mr. Jephson.] That is not likely to be the feeling of persons who have debts due to them?—Persons generally give credit for at least three months, perhaps longer, and then they have the opportunity, every three months, to recover the debt if it is not paid.

1463. Mr. Redington.] Is it your opinion the majority of the cases tried in the seneschal's court now are debts of longer standing than three months?—Yes, I think they are, certainly; and the debts at quarter sessions too.

1464. In that district which is now deprived of the seneschal's court, do you think there is any difficulty among the farmers and the poor people in obtaining the necessary credit?—Not the slightest; I see as great a number of processes, civil bills, brought to us as usual; there is just the same facility, I think, in obtaining credit.

1465. Chairman.] Are there any other matters connected with the manor courts of the county of Cavan, which you wish to mention to the Committee?—The only matter I would mention is with regard to those attachments; I think they are productive of very great hardship where the party is not residing within the manor at all.

1466. Is it always found that the cause of action arises within the manor where the attachment is issued?—Sometimes it is, and sometimes not.

1467. Is there ever an affidavit required previous to issuing the attachment?—I understand from the seneschal of Killesandra, that he now requires an affidavit, but I have known instances where he did not.

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Thomas Cochrane.
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1458. How long ago?—I should think up to 1833 he never did; I think, since I brought the process against him, before Mr. Major, he has required an affidavit; at that time he was only deputy seneschal.

1459. Then, in the court of Gwilliambrook, is there an affidavit required?—Latterly there was, in consequence of advice I gave Mr. John Benison, the late seneschal.

1470. You consider that at common law an affidavit would be required previous to issuing an attachment?—I do not think the law requires it; but I conceived a great many of them were issued for the purpose of annoyance, and to endeavour to check that, I advised the seneschal to require an affidavit.

1471. Did you advise him to include with that affidavit, that the cause arose within the manor?—I did not.

1472. Did you not think it of importance that such a restriction should be placed upon attachments being issuable by the manor courts, or corporate courts in corporate towns, or any other such courts?—Certainly.

1473. And with that restriction, it would be rather beneficial than otherwise to allow the power of proceeding against defendants who might not reside within the manor?—My own strong opinion is, that it is a hardship upon a party not residing within the manor to be subject to its jurisdiction; by it you have a benefit given to one part of the county, and another part has no such benefit.

1474. That arises from the exclusiveness of the jurisdiction?—Certainly.

1475. But supposing the whole country to be parcelled out uniformly into manor courts, how could you allow a shopkeeper, for instance, in manor A., a remedy against a farmer in manor B., for a transaction in the town in which the plaintiff resides; how would you allow that at all, if you did not allow the process to go from one manor into another; that is, if you restrict the jurisdiction of the courts to transactions between persons residing in the same manor?—The plaintiff could go into the adjoining manor where the defendant lived and get a process against him, in the same way as in the assistant-barrister's court.

1476. Then if the transaction between them had taken place in the town where the plaintiff resides, would it not, in the first place, be contrary to the principles of law; and in the second place, would it not be a hardship upon the plaintiff?—No more than to bring a civil-bill process in a county in which he did not live.

1477. But where a party contracted a debt for his own convenience, perhaps in the market town that he is in the habit of attending?—Then on principle, I think, if a man contracts a debt in a manor, he should be amenable there.

1478. Mr. *Villiers Stuart*.] Do you not consider these restrictions into different manor courts very inconvenient to the debtors and creditors?—Indeed I do.

1479. And that it is a strong argument against manor courts being allowed to exist at all?—I think the courts of quarter sessions are quite sufficient for the recovery of small debts, now that the extension of them has taken place under the late Act; there are a great many towns in which they are held now where they were not held before.

1480. *Chairman*.] Are there a great many districts in Cavan over which no manorial jurisdiction extends?—Indeed there are.

1481. Over which there are no traces of any such jurisdiction having ever been exercised?—I never heard of any in Cavan or in Belturbet, but there are in other districts. I know a very extensive property, in which I do business myself, belonging to the Primate, near Ballyconnell, and there never was a court held there. It is in the manor of Beresford; but there never was a court held in it.

1482. Have you ever known the value of property affected in the least by the existence or non-existence of these manorial rights?—Not in the least. I know that a property near Killesno, over which the manor does not extend, was sold sometime ago, and I am sure it went for as much, without any manorial rights, as any part of Mr. Southwell's property would go for, if he sold the manorial rights.

1483. You mentioned just now the manor of Purnar, in which there were no appeals, in consequence of the great distance from the assize town?—Yes.

1484. Do you not think that is a great hardship, the appeal being given to the assizes, from the great distance a party has to go?—I do; I think it is a great hardship

hardship upon the plaintiff, if the debt is due; and upon the defendant, if he does not owe the debt.

1485. Are not appeals often made for the purpose of vexation?—I should rather think they are; indeed, I am pretty positive they are. There are a great many more lodged than ever came to the assizes.

1486. Is there not also a great inconvenience from the length of time that may elapse before an appeal is heard?—Yes.

1487. If the system of manor courts, or by whatever name they might be called, were continued, would it not be a great convenience if the appeal were given to the quarter sessions?—Decidedly so; at present, if the court is held in the latter end of July, the party, if he wish to keep the plaintiff out of his debt, by paying 1 s. may keep him out of it till the month of March, whereas it would be heard at the quarter sessions in the month of October for a trifling sum; and he would have to go but a small distance, while he may have to go 30 or 40 miles in the other case. The senechal is bound on his paying the shilling to take the appeal, even when no doubt appears; and if he lives a distance off, it is a very great hardship on a man to have to go to the assizes for a debt of a few shillings.

1488. Mr. Villiers Stuart.] Is not the jurisdiction of the senechal's court higher in some cases than the barrister's court?—Yes; in the manor of Manorhamilton, in the county of Leitrim, it extends to 1,000 l.

1489. Might not that be an objection to giving an appeal from the senechal's court to the assistant barrister, as you would then be appealing to a court which had a smaller jurisdiction?—I should think not.

1490. Chairman.] Are you sure that the manor court of Manorhamilton is still in existence?—I am not positive that it is in existence now, or that it has been for the last few years; but I know it was in existence ten years ago, for a client of mine was arrested in it.

Lane, 7th die Maii, 1838.

MEMBERS PRESENT.

Mr. Bridgeman.
Mr. Lucas.
Mr. M. J. O'Connell.

Mr. Rodington.
Mr. Villiers Stuart.

M. J. O'CONNELL, Esq., IN THE CHAIR.

Mr. Henry Bagge, called in; and Examined,

1491. Chairman.] WHERE do you reside?—Dungarvon.

1492. Do you follow any profession?—Yes; I am a solicitor.

1493. Is there a manor court held in the town of Dungarvon?—There is.

1494. Have you an intimate knowledge of the proceedings of that court?—Yes.

1495. Have you ever practised in it yourself?—Some years ago I have. some cases.

1496. How many years ago?—About 15 years.

1497. Were you admitted an attorney or solicitor at that time?—Yes been upwards of 20 years admitted.

1498. You were a junior practitioner at that time?—Yes.

1499. Are attorneys and solicitors in respectable business in the practising in those courts?—No; I have not myself done anything the 15 years.

1500. How often does the court sit?—Every three weeks.

1501. Where is it held?—At the court-house.

1502. The same court-house where the quarter sessions are held?—

1503. Are juries impanelled in all cases?—They are.

Mr. T. Cadogan.

3 May 1838.

Mr. Henry Bagge.

7 May 1838

Mr. Henry Bagge.

7 May 1838.

1504. Are you aware whether they are regularly summoned to attend the court?—I believe not; I believe they are very often merely requested to attend by the seneschal or his bailiff.

1505. *Mr. Lucas.*] Have you any knowledge of the practice of the court of late years?—Only from hearsay, how the court is constituted, and the nature of the decisions in it, and have heard complaints made of the jurors.

1506. Can you take upon you to say, conscientiously, that what you are now detailing is the case?—I think I can; I did not come to London for the purpose of being examined upon this subject; if I had been aware of it, I might have brought documents with me which I should have been able to refer to.

1507. *Mr. Villiers Stuart.*] When you speak of complaints against the court, you do not speak of complaints against the seneschal?—Certainly not.

1508. The seneschal is a very respectable person, I believe?—Very much so indeed.

1509. *Chairman.*] Is the seneschal a legal person?—No.

1510. How long has he filled the office?—I suppose over 30 years; I cannot tell exactly how long.

1511. But your recollection is sufficient to enable you to state that he was in office 30 years ago?—Yes, I think he has been in office upwards of 30 years.

1512. As the complaints you have mentioned as prevailing among the public of Dungarvon and its neighbourhood do not refer to the seneschal, to what part of the court do they refer?—The issuing of attachments particularly.

1513. Do they refer at all to the jurors?—Yes; the jurors are not a respectable class, as I have heard, and believe.

1514. Do you know, in point of fact, from living in the town, anything of the persons who are in the habit of serving upon the juries?—I do.

1515. Of what class of life are they?—Generally low shopkeepers, publicans, and tradespeople.

1516. Any fishermen?—No, I believe not; generally speaking, not of so low a class.

1517. Are they the same class of people who serve upon juries at quarter sessions?—No, not so respectable.

1518. Not so respectable even as the quarter sessions?—No.

1519. The quarter sessions for the county are held at Dungarvon, are they not?—Yes, for one division of the county.

1520. The largest division of the county?—Yes; there are three divisions; Dungarvon is the largest division in the county.

1521. Of whom are the juries in the quarter sessions composed; are they shopkeepers in the town of Dungarvon, or farmers in the country?—Of shopkeepers in the town of Dungarvon, and some respectable farmers and people in the middle rank of life in the country. They are respectable, and give satisfaction. I have heard the assistant barrister say the Dungarvon juries are very good, and much better than any other part of the county.

1522. There are some respectable farmers in the neighbourhood?—There are in that division of the county.

1523. Except stating that the jury are not so respectable a class as people think they ought to be, is there any other complaint upon the score of the jurors that you have heard?—No, I cannot exactly say there is.

1524. Are you aware whether the seneschal, if he were inclined to get a respectable jury, has the power to enforce their attendance?—I do not think he has; I do not think he could get the respectable people to attend.

1525. *Mr. Villiers Stuart.*] Have you ever known summonses issued for some of the respectable men to attend, and they refused to do so?—I have heard of summonses being served on Mr. Patrick Dower, and that he refused to attend, and the seneschal took some proceedings against him.

1526. *Chairman.*] You heard that the seneschal took proceedings against that gentleman for not attending?—I did.

1527. Do you know what the result of the proceedings were?—No; it is so long ago, I do not recollect.

1528. With

1528. With regard to attachments, what particular complaints have you heard upon that subject?—I have heard of vessels and boats, laden and ready to proceed to sea, being seized under those attachments, which is considered a great grievance.

1529. Do you know when an instance of that sort last took place?—I believe instances take place yearly; I know some instances took place very lately.

1530. Are goods of any other kind ever seized in a vexatious or improper manner?—I heard of an instance which occurred lately, of Mr. Barron being summoned before magistrates for wages, and they unanimously dismissed the complaint, and the person who had the alleged demand against Mr. Barron went and issued a manor court action, and had his cow seized; I heard that complained of by the magistrates and other persons there. If any person makes an affidavit before the seneschal, the seneschal issues an attachment against the goods.

1531. *Mr. Villiers Stuart.* Was the cow seized within the manor?—Yes; they cannot seize out of the manor. Mr. Barron lives in the manor, at a place called Lackan.

1532. *Chairman.* Was the cow bailed after being seized?—I cannot say.

1533. Did the case come to trial?—I do not know; I was a great part of the last year from home, in Dublin, and I do not attend to those matters; I rather think, from what I heard, that Mr. Barron paid the money sooner than go to the expense of litigating it.

1534. *Mr. Villiers Stuart.* You do not know what the sum was?—It was some small sum I should suppose.

1535. *Chairman.* Then you do not know whether that fact of the petty sessions having adjudicated upon the claim, and decided against the claimant, was ever brought judicially under the notice of the seneschal?—I believe not.

1536. Is not the seneschal obliged, upon the requests being complied with, to issue those attachments, upon any person applying for them?—Yes; upon a party swearing an affidavit, the seneschal issues an attachment directed to his manor bailiff.

1537. The seneschal always requires an affidavit?—Yes, he does, of the debt being due, and contracted within the manor.

1538. When goods seized under an attachment are bailed, is not the form of trial a much more costly one than the common one of civil bill?—Yes; the costs amount to between 3*l*. and 4*l*. This paper, which I have got from the chairman, contains the different items of the costs.

[The Witness delivered in the Paper.]

1539. *Mr. Lucas.* From what source is the document taken?—From my recollection, that those are the costs charged.

1540. How many years ago did you practise there?—Fifteen years ago.

1541. This is your recollection of the cases at the time you practised in the court?—Yes; and I have since frequently seen the costs charged, and have no doubt as to their correctness.

1542. It is your recollection of the costs at the time you practised; you have no reason to believe that it has since been changed?—I have not.

1543. *Mr. Villiers Stuart.* The complaints against the manor court of Dungarvon are chiefly against the exercise of the common law processes?—Against the issuing of attachments, I think, principally.

1544. It is left now to the option of the parties whether they will proceed by civil bill or by attachment?—It is.

1545. Is there any good reason for a party adopting the more expensive course?—I do not think there is, except in the instance of a farmer coming into town, living out of the manor; and if he contracted a debt within the jurisdiction, and they find he comes into town, they issue an attachment for the purpose of taking his goods. That frequently occurs, and exposes the farmers to considerable expense and annoyance.

1546. And the creditor would have had equally good means of obtaining the payment of his debt by recourse to the less expensive process by civil bill?—I think much better, because he would have the sheriff to execute the civil bill decree of the quarter sessions court.

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1547. I mean the civil bill process of the manor court?—I think so, if the debtor resided in the manor; but the civil bill decree, I believe, is out of date in three weeks; it only lasts until the following sitting of the court.

1548. Mr. Redington.] Are the courts held every three weeks?—Yes, and a decree only lasts till the next court day. Supposing I get a decree at the manor court to-day, it only remains in operation for three weeks, unless renewed at the next court day.

1549. Chairman.] Do you know why it must be renewed?—I do not know, except the seneschal is restricted by Act of Parliament; I cannot say whether it is legal or not, but I believe it is the practice.

1550. Is it so stated in the body of the decree?—I do not recollect.

1551. Is there a fee upon the renewal of a decree?—I do not know.

1552. If there is a fee of a shilling or sixpence upon the renewal of the decree, would that induce the seneschal to make it necessary to renew the decree as often as possible?—I do not think it would, and I am not aware that he is entitled to any fee on renewals.

1553. Mr. Villiers Stuart.] Are you aware whether in the manor of Dungarvon it is in fact necessary to renew the decree every court day?—I believe it is necessary to do so.

1554. Chairman.] It appears from a return of the seneschal of Dungarvon that the number of civil bill cases tried in every year has greatly exceeded that of attachment cases tried; does that fact show that there was a smaller number of attachments issued?—I cannot inform the Committee.

1555. Is every attachment that is issued brought to trial?—I should suppose not; a great number are settled before coming to trial, and I am sure a great number of civil bills also are issued which never come to trial.

1556. Mr. Villiers Stuart.] Is the number of attachments tried a fair criterion of the number of attachments issued?—I should think not; there are more attachments issued than are tried; many persons settle who do not wish to incur the expense of a trial.

1557. Chairman.] Then these attachments do some good?—I believe they may be of some good in a few instances.

1558. In any of the cases where vessels have been seized, was the debt not due from the owner of the vessel?—I cannot say.

1559. Have you ever heard of a flagrantly unjust case of that sort?—I have heard that two or more persons were the joint owners of a vessel, and that the debt for which the vessel was seized was the debt of only one, part owner, which I consider to be a great hardship on the others, and also on the merchant who loaded the vessel, to have her seized, and prevented from proceeding to sea, or the cargo to be landed, and the part owners injured by losing the freight.

1560. Would not they have a remedy at law against the part owner for whose entire debt the vessel was seized?—They might have an action, but probably the part owner would not be in a sufficient state to pay the costs. I know that is considered a very great hardship, both to the merchant and the other part owners, that a vessel and cargo should be seized, and perhaps the person against whom the attachment issued might have but a very small share in the vessel. It is particularly in those cases I have always considered the issuing an attachment a very great hardship.

1561. Mr. Redington.] Do the shopkeepers and people of that class in Dungarvon usually proceed for their debts of small amount in the manor court in preference to the assistant barrister's court?—They prefer the assistant barrister's court, decidedly.

1562. Even for debts for which they might proceed in the manor court?—Yes, I think they do.

1563. Mr. Villiers Stuart.] Are you at all aware how far the jurisdiction of the seneschal extends in the harbour of Dungarvon; could he seize a vessel lying outside the barbour?—I believe not; I never knew an instance of it; vessels and boats are seized alongside the quay, but outside the harbour I never heard an instance of it; I do not believe a vessel could be seized outside the harbour.

1564. Mr.

1564. Mr. Lucas.] What class of persons sue in the manor court, if the class you describe prefer the assistant barrister's court?—In general, farmers, tradespeople, and shopkeepers; and I should say the people prefer the assistant-barrister's court.

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1565. Then how does it arise that any cases at all are tried in the manor court?—I cannot state exactly, except that persons may not wish to wait till the next quarter sessions, or might suppose they would recover their debt quicker. I have known cases dismissed without prejudice in the barrister's court, and afterwards tried in the seneschal's court.

1566. Have you ever known any corrupt motive or reason influence persons in preferring the seneschal's court?—I have not.

1567. Mr. Villiers Stuart.] The seneschal of Dungarvon is too fair a person to admit any hope of an unjust cause succeeding?—I think so; I think he is a very fair, intelligent, and impartial man.

1568. Mr. Rodgston.] Do you conceive the disposition to proceed in the barrister's court, in preference to the seneschal's court, arises from the belief that the barrister's tribunal is a fair and more intelligent one?—Yes; and the decrees from the barrister's court need not be renewed for a year; and the jurisdiction of the manor court is over but a small portion compared with the assistant barrister's.

1569. Mr. Lucas.] Are the costs greater in the barrister's court than in the seneschal's court, for a sum of the same amount?—In the seneschal's court they are more expensive.

1570. Whether the proceeding is by civil bill or by attachment?—Yes.

1571. Then probably the less costs may be the reason for more cases being tried in the barrister's court?—The district over which the barrister presides is larger, and therefore much more cases must, of necessity, be tried by him, even if the cost in his court was greater than the manor court. The jurisdiction of the manor court is limited to the town, and a small portion of the country.

1572. Chairman.] What are the costs in the seneschal's court in a civil bill process?—I cannot say exactly.

1573. You say they are more than in the barrister's court?—Yes, the barrister has only 1*s.* for his own costs, and I believe the seneschal has much more.

1574. What are the costs in the barrister's court?—I think about 5*s.* 6*d.* for a decree.

1575. That includes the attorney's fee and all?—Yes, and the clerk of the peace, and the barrister.

1576. Do you know what the legal costs in the seneschal's court are?—I believe they are from 7*s.* to 9*s.*; if I had the Act of Parliament I could make it out.

1577. Then your answer, that the costs upon a civil bill process in the manor court are higher than the costs upon a civil bill process in the assistant barrister's court, is founded upon the supposition that in the former they amount to 9*s.*?—I believe that is so; if I had the Act to refer to I could make up the exact sum.

1578. But the reason you say they are higher than in the barrister's court is because you suppose they amount to 9*s.*?—My belief is they are more in the seneschal's court.

1579. Is the reason why you believe they are more because you also believe they amount to 8*s.* or 9*s.* or 10*s.*?—Yes, I believe they amount to 7*s.*, 8*s.* or 9*s.*

1580. And if you found they could not legally amount to more than 5*s.* 6*d.* what would you say?—I would say that I believe the seneschal does not charge more than the legal costs.

1581. Then if you found that to be a fact from looking at the Act of Parliament, should you say they were higher or lower than in the assistant barrister's court?—My impression is that they are higher than in the assistant barrister's court.

1582. Even if you found the Act did not allow them to exceed 5*s.* 6*d.*?—I believe you will find the seneschal charge 1*s.* for signing the process, 6*d.* or

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1 s. for serving, a fee for entering the process or signing a decree, also a fee for the attorney.

1583. Mr. Lucas.] Are you stating your general impression, without pinning yourself to exact accuracy?—Yes; I cannot state accurately unless I see the Act of Parliament.

1584. Then your impression is that the costs in the seneschal's court are 8 s. or 9 s.?—Yes.

1585. And that the costs in the barrister's court would not amount to that sum?—Yes.

1586. When you say the costs in the barrister's court amount to 5 s. 6 d., do you mean the attorney is satisfied with the fee that is included in that 5 s. 6 d.?—I do.

1587. And he actually conducts the case for that sum?—Yes, and pays the barrister and clerk of the peace.

1588. Chairman.] The attorney's fee is taxed against the unsuccessful party in the barrister's court?—Yes, it is.

1589. Whatever is paid to the agent in the manor court, are you aware whether they can be taxed against the unsuccessful party?—There is an attorney's fee allowed in the manor court against the unsuccessful party.

1590. Is that taxed against the unsuccessful party?—I think it is; but if you refer to the Act of Parliament, I think there is a schedule giving the fees, and I could then ascertain what the seneschal charges.

1591. Mr. Villiers Stuart.] Is it your impression that in the manor court of Dungarvon there is an attorney's fee charged upon the civil bill process?—Decidedly so.

1592. I understood you to say, in the early part of your examination, that attorneys did not practise in that court?—I stated that respectable attorneys in good practice do not practise there.

1593. Then some attorneys do?—Yes, young attorneys.

1594. Chairman.] Do any persons not sworn attorneys practise in that court?—No; they did formerly, but not now.

1595. Does the seneschal prevent it?—He does.

1596. Mr. Redington.] With regard to the sum charged for serving a process, have you ever known an instance in which that was charged?—It is charged by the manor bailiff, who is appointed by the seneschal.

1597. Have you ever known an instance where that was charged against the party?—It is paid by the plaintiff, and, I believe, charged against the defendant.

1598. And that sum is not included in the return made by the seneschal?—I should suppose not. The seneschal, I know, charges 1 s. for signing the process, and some other fees on entering the process or signing the decree, besides the attorney's fee.

1599. Mr. Villiers Stuart.] Does making use of the attachment process, or the civil bill process, depend upon the attorney to whom the party applies?—I think not; it depends upon the party, who generally goes to the seneschal, and not the attorney; and after the attachment issues, and if no arrangement takes place, they employ an attorney.

1600. Mr. Redington.] Are you of opinion that, generally speaking, the debts that are proceeded for in the manor court are of more than three months' standing?—I can form no opinion upon that; I should think a great portion of the debts are of a longer standing.

1601. Chairman.] Do you think once in three months is sufficiently often for a court to be held for the recovery of small debts in country towns?—I do.

1602. Is the district of Dungarvon in the new division of quarter sessions a very large one?—It is the largest division of the county.

1603. Are many parts inconveniently far from Dungarvon?—No; I think there has been no complaint since the last division.

1604. Does it extend to the northern part of the county; to the borders of Tipperary?—It does; the barony of Glandera joins Tipperary; it is a very small barony, and only contains one parish.

1605. That is at some distance from Dungarvon, that part of the country?—I suppose it is 18 or 19 miles.

1606. Now

1606. Now, do you find the people of that district complain of the distance they have to go?—No; that barony was formerly attached to the division of Waterford, and they complained then; and it was upon a memorial from the grand jury that the Lord Lieutenant changed it to the division of Dungarvon, and since the change there has been no complaint.

1607. How far is that part of the country from the town of Waterford?—I cannot exactly say; I should suppose it is nearly double the distance from Waterford that it is from Dungarvon.

1608. I believe until of late years there were no good roads in that part of the country?—Only of late years.

1609. Mr. *Villiers Stuart*.] Did you ever hear any complaints against the system of the civil bill process in the manor of Dungarvon?—No.

1610. But the chief grievance arises from the expensive process of attachment?—Not altogether the expense, but the hardship of seizing vessels, or the goods of farmers coming into market with their produce; I have heard shopkeepers complain that it kept some of the farmers out of the market; if they owed any little debt contracted in the town, they may go to another market to avoid their goods being seized.

1611. And damage done to their goods perhaps?—I never heard that their goods were damaged.

1612. And the loss arising from detaining them?—Yes; I have heard of butter, fish, and other perishable articles being seized under attachment.

1613. Mr. *Villiers Stuart*.] According to the present constitution of this court, it is in the power of the seneschal, even in a case of a debt of a few shillings, to make use of the expensive process of attachment?—I believe an attachment does not issue unless the debt is over 40 s. Irish.

1614. But for so small a sum as 40 s. it is in his power to issue an attachment?—Yes.

1615. Mr. *Lucas*.] Have you any suggestions to make with a view to the improvement of these courts?—I think it would be better to have them abolished altogether; I cannot think there is any necessity for them at all.

1616. You think they are not capable of improvement?—I think it would be better to have them abolished.

1617. Mr. *Villiers Stuart*.] You do not state that from what you have seen of the court of Dungarvon, as I understood you to say that is conducted in a most respectable manner?—So far as the seneschal is concerned; it is conducted by him in the best manner. I would suggest that, if those courts were to be continued, practising barristers of six years' standing ought to be appointed seneschals, and more power given to them; I think that would be an improvement.

1618. Mr. *Lucas*.] From your knowledge of the courts in your neighbourhood that you have had business with, you think they are not sufficiently capable of improvement to make it worth while keeping them?—I think not, and I believe the general opinion is, that it would be better they should be altogether abolished, but if it is worth while to improve them at all, I think, as I stated before, legal persons ought to preside.

1619. Have you ever happened to know any one of them that has worked well?—No, I have not; I have heard them generally complained of.

1620. You have never known any one of these courts that has been an useful and beneficial court to the neighbourhood?—No; I rather think they are generally complained of; people have no confidence, from the way in which justice is administered to them by the jurors and some seneschals.

1621. Is your own opinion in favour of having courts for small debts numerous, if they are well conducted?—I think there is no complaint of the way the magistrates at petty sessions administer the law as to wages, and my opinion is that in cases of from 5 s. to 1 l. they would be able to decide and do justice between the parties without going to quarter sessions, where they might sometimes wait a week for a 5 s. transaction; and I think the magistrates are so much respected, that they would settle trifling debts or disputes as well as the assistant barrister at quarter sessions.

1622. Then you would rather suggest that the magistrates should have a jurisdiction over a different class of debts than that which is entrusted to them at present?—Yes; my reason is, I do not find any complaints of the manner in

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which the magistrates exercise their jurisdiction as to wages cases; I believe they decide those cases up to 5*l.* and under 6*l.*, and there are very few appeals, compared with the number of cases disposed of; and therefore I think they could decide other small debt cases also.

1623. Since their decisions with regard to wages cases under 6*l.* at present gives satisfaction, in your opinion, do you think it would be desirable to intrust them with cases of actions for a small amount?—Yes, in the same manner as they decide wages cases. It is a great hardship for parties to be obliged to go to the quarter sessions for 2*s.* or 3*s.*; I have known persons with their witnesses waiting at the quarter sessions for a week; and the expense of the petty sessions is very little, only 6*d.* for a summons, and 6*d.* for serving it, and the magistrates patiently hear every case brought before them, and decide impartially.

1624. The petty sessions, you think, are held so much more conveniently for the people in point of distance, that expense is saved by them in that way?—Yes.

1625. Then cases approaching to 40*s.*, you probably would wish those to be tried altogether by the assistant barrister?—Yes.

1626. Would you suggest a jury or not?—Not before the assistant barrister; I think there is no occasion for it; I think he decides very fairly.

1627. Before the magistrates at petty sessions, if they had jurisdiction in actions or debts to a small amount, would you suggest a jury or not?—No; I think they would decide fairly without a jury. It might be difficult to get respectable juries to attend the petty sessions court.

1628. You do not think the circumstance of the magistrates sitting one day being different from the magistrates sitting another day would affect the general efficiency of petty sessions courts?—I think not.

1629. So that, in fact, you are generally favourable to the extension of courts for small debts through the country for the benefit of the people, provided only they were well and impartially administered?—Yes, extending the jurisdiction to the magistrates at petty sessions; I think they would be much better than the seneschals.

1630. Your opinion is favourable to giving every convenience to the poor for trying small actions of debt, provided, by giving that convenience, you do not injure the impartiality of the decision?—Yes.

1631. Have you any other suggestion to make with regard to these courts?—No, I have not, that I recollect.

1632. *Chairman.*] Would you suggest the same form of proceeding, and the same form of summons before the magistrates, in case you give them a small debt jurisdiction, as they now have in wages cases?—Exactly; it is against the goods that a warrant is issued for wages, and could be also issued for any other debt; I would give a right of appeal to the quarter sessions, as in wages cases.

1633. *Mr. Villiers Stuart.*] Do you not think it would add greatly to the business of the magistrates at petty sessions?—I think it would give them a great deal more business than they have at present.

1634. Have you been in the habit of attending the petty sessions in the county of Waterford?—Frequently.

1635. Are not the magistrates now usually kept the whole day by the business that now comes before them?—Yes, they are kept sometimes now the entire day.

1636. Then if you were to give them an additional small debt business, they would hardly be able to get through it?—There could be more magistrates appointed, and more petty sessions courts.

Martis, 29^e die Maii, 1838.

MEMBERS PRESENT.

Mr. Bridgeman.
Mr. Jephson.
Mr. Luton.
Mr. Lucas.

Captn Meynell.
Mr. M. J. O'Connell.
Mr. Redington.

M. J. O'CONNELL, Esq., IN THE CHAIR.

Mr. Samuel D. Cragford, called in; and Examined.

1637. *Chairman.*] WHAT is your profession?—I am a flour miller.
1638. In what town do you reside?—In the town of Castledawson, in the county of Derry.
1639. You are seneschal of the manor of Castledawson?—I am.
1640. In what county is that situate?—Londonderry.
1641. Who is the lord of the manor?—Mr. George Robert Dawson.
1642. What is the extent of the jurisdiction?—20 l. sterling.
1643. It appears from the return that the charter was granted by Queen Anne?—Yes; it was in the year 1713.
1644. In the return you do not state it with accuracy; you merely state the charter is lodged in Dublin, in some of the courts?—Yes, it is; I had an attested copy of it at one time; but I went to the assizes on one occasion, and it was mislaid.
1645. How long ago is that?—I suppose about three years since.
1646. Was it for the purpose of an appeal being tried that you took it to the assizes?—No; it was a record that was tried at the assizes, which commenced at our court.
1647. Have you ever had to produce a copy of your charter on the trial of an appeal?—I never had.
1648. Is the manor an extensive one?—I think it is six miles long one way, and about five broad. The town or village of Castledawson is in the manor.
1649. Is it a populous place?—It is rather so.
1650. How many inhabitants should you say?—800.
1651. Is it a post town?—It is a post town, and a market and fair town.
1652. Are the people much employed in manufactures, either in the town or in the country about it?—They are; they are employed in the cotton and linen trade.
1653. Where do you hold your court?—In Castledawson town.
1654. Is there a regular court-house?—There is not, but there is a large room in the inn I hold it in.
1655. How often does your court sit?—Once a month.
1656. Of what class are the jurors composed?—Freeholders of the manor; respectable freeholders.
1657. Are they regularly summoned to attend your court?—Sometimes they are, and sometimes not; I generally get people to attend me on the court-day.
1658. Without regularly issuing a summons?—Yes; when I find people are busy at harvest, or at fairs, or markets, I apply to others to whom it is more convenient.
1659. Do you always take care they shall be residents within the manor?—Yes.
1660. When you do summon the juries, by whom is the summons served?—My bailiff; but (if you will allow me to make a remark here) I cannot tell whether the seneschal has the power of enforcing the attendance of jurymen.

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I do not know how that is; I never saw any Act of Parliament to that effect; and I think if an Act were passed, there should be an alteration in the law as to that, that after an inhabitant of the manor gets a certain number of days' notice, if he will not attend, he should be fined 1*l.* or so. I think that would be right, as it would make them attend.

1661. Is there in the leases of the tenants of the manor any clause obliging them to attend to perform suit and service in the manor court?—Some leases are so, but others are not; those things are not much attended to now, I believe.

1662. Are there any leases directly from the lord of the manor himself in which a clause of that sort is not inserted?—I have not seen any of those leases; I have seen leases in which such a clause was inserted. I do not think that Mr. Dawson has such a clause inserted in any lease now granted. I think if a law could be passed, that jurymen should be bound to attend, after receiving a certain number of days' notice, or be fined, it would be very proper.

1663. Is the whole manor the estate of the lord of the manor?—It is.

1664. Do the tenants in general hold directly under him, or are there middle-men?—There are some middle-men.

1665. Are any of those middle-men holding under leases for ever under Mr. Dawson?—All are; the estate is mostly let in perpetuity; that is, on lives renewable for ever.

1666. Most of the estate is let in perpetuity?—It is almost all.

1667. Then he has not much direct control over the tenants?—No, he has not, except in some townlands where the lives are renewable; only the lord of the manor has always some things, the bogs, &c. in his power, and other matters.

1668. But he has not the improvement of the estate in his power so much as the tenants under him?—He has.

1669. How long have you been seneschal of the manor of Castledawson?—Since the year 1814, that is 24 years ago.

1670. What is the average number of cases tried in your court each day?—Some days 20 and under; sometimes 10, a dozen; it fluctuates.

1671. How long does your court sit each day?—I suppose five or six hours sometimes, and sometimes three or four, or two, according to the business we have to do.

1672. Upon an average four hours?—Yes.

1673. What time in the day do you meet?—Eleven o'clock.

1674. Are the jurors who attend in your court generally intelligent men, and men capable of deciding upon the questions which come before them?—Yes, they are.

1675. Are they such persons as are placed upon juries in the quarter sessions courts?—Yes, much the same.

1676. Are you in the neighbourhood of a quarter sessions town?—I am within two miles of it, Magherafelt.

1677. Magherafelt is not in your manor?—It is not.

1678. Is the town of Castledawson central; is it well placed for holding the court?—It is about the centre.

1679. Then your manor must be rather an irregularly shaped one?—It is; the manor of Magherafelt on one side comes into the town nearly, within a short distance of it; and in other places the manor of Castledawson is six miles from it.

1680. It is six miles long?—I think it is about that.

1681. And five miles broad?—Yes.

1682. Then as another manor comes within half a mile of the town, how can you say that Castledawson is a central place?—It is a central place, although the manor of Magherafelt comes near it.

1683. You mean central as far as the convenience of the people is concerned?—Yes.

1684. It is the town they frequent for the purpose of marketing?—Yes.

1685. Is there any other manor in the neighbourhood besides Magherafelt?—Yes, the manor of Salters, which carries a very small jurisdiction, only 1*l.* 16*s.* 4*d.* sterling.

1686. Your

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1686. Your jurisdiction, you said, goes to 20*l*.?—Yes.
1687. You stated that sometimes you summoned jurors and sometimes not, do they generally like to attend as jurors in your court?—Yes, some do.
1688. Some have a fancy for it?—Yes.
1689. Have you ever had occasion to remove persons from the jury on account of their being challenged by either party?—Yes, sometimes; I remove them if there is a proper cause.
1690. What do you consider a proper cause?—If they make remarks upon the cause they are going to try, or if they are relations of either party; in that case I would not swear them on any account.
1691. Do you generally try all the cases on each day with one jury?—Yes.
1692. Now suppose, after trying two or three causes, you should find a case coming on in which the plaintiff or defendant was related to one of the jurors, do you put that juror by, and put another in his place?—I could not put him off after I swore him, but I inquire mostly beforehand.
1693. You inquire into those things beforehand?—Yes, I generally do; I know so much of the country, and the relationship of the people, that I consider those things beforehand.
1694. You consider it beforehand, and if there is anything of that sort, you do not put them upon the jury?—Yes.
1695. Do they sometimes object themselves upon that ground; do they say, "I do not wish to serve, I am related to one of the parties"?—I have seen it done; they act from conscientious motives I have no doubt.
1696. Have you good accommodation in this room where you hold your court?—Very good.
1697. Do you keep the jury separate from the body of the by-standers?—Yes.
1698. How, is there a table, or a railing round it?—We have a table; I intend making a railing.
1699. For the purpose of separating the jury?—Yes.
1700. Suppose there should come a case before them upon which they had any difficulty in making up their minds, do they retire to consider of their verdict?—When the business of the day is over the court is cleared, and the jury deliberate, and they sign the book, and give it to me. They are by themselves then.
1701. The room is cleared, and the jury remain it?—Yes.
1702. Do you remain with them?—Sometimes I do, and sometimes I do not. In difficult cases they call me in to explain my opinion to them.
1703. To explain your opinion of the law?—Yes.
1704. But when you have explained that, do you remain with them, or do you go out?—I go out. If it is a simple thing, for cash, or goods sold and delivered, I sometimes tell them what my opinion is, and they find it at once; but if there is anything difficult, I go out.
1705. When there happens to be any difficult case, do you exclude the public from the court at all?—I do.
1706. Upon all occasions?—Yes.
1707. Then is it the practice of the jury not to deliberate upon their verdict until all the cases are finished?—Yes, when all is finished, they deliberate upon the whole; they take No. 1, No. 2, No. 3, and so on.
1708. Then if there are 20 cases, they do not deliberate until all are over?—Yes.
1709. Are they able to remember the facts of each case?—Yes; the foreman of the jury takes notes.
1710. Do you take notes, and read them over to them?—Yes.
1711. Then suppose you forget them?—I cannot forget them.
1712. Are you desirous then of always obtaining a foreman of superior intelligence?—Yes, it is desirable in all cases.
1713. Do the verdicts of the jury in general give satisfaction in your manor?—I think they do; jurors in courts with local jurisdiction like ours must be supposed to know more of the country than a barrister would. Each case is tried by 12 men, whereas the barrister is only an individual; and I certainly do think the people are pleased with it.
- 1714-5. Have you ever found a difficulty in getting 12 men to attend?—I have in harvest time, or fair, or market time.
1716. Have

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1716. Have you ever considered what would be the effect if the number were reduced to one-half; if six were sufficient for a jury?—I like to have 12.

1717. You think there is more confidence in the opinion of 12?—Yes, our law says so; I know the barrister sometimes calls to his assistance three individuals, supposing there is a disputed point in a case; I have seen that done at the sessions.

1718. Have you not found where the barrister does that it gives satisfaction?—Yes, much more so.

1719. With regard to those practices which vary in every county, and sometimes in different parts of the same county, with reference to engagements given as to cattle, questions of wages, and other points which the barrister could not know so much of as persons of local experience, do you not find in those cases that the barrister calling in the assistance of three jurors, does give satisfaction?—I think it does.

1720. Is it not the practice of the barrister always to call in such persons in all cases of that kind?—No, not in all cases; sometimes they require it, and sometimes not.

1721. But where the barrister himself has a doubt with regard to the usual practice in that part of the country, does he not then call in the assistance of three persons?—I have heard it said so, in any difficult case.

1722. Are you in the habit of attending the quarter sessions?—Not generally, I am not.

1723. What kind of cases are those generally that come into your court?—For cash, goods sold and delivered, and upon bonds or promissory notes; there are different causes of action.

1724-5. In all these cases your jurisdiction extends to 20 l.?—Yes.

1726. Are the generality of cases tried in your court cases of attachment, or common civil bill cases?—Both.

1727. Does your attachment issue against the person as well as the goods?—Our charter says to both body and goods; it is a very extensive charter; in fact, it is a court of record; sometimes we go by record, and sometimes by civil bill. I will explain that if you will allow me: we had the power, though not in my day, of arresting the body, but an Act of Parliament was brought in ten years ago (the Prison Act) which says if the power of imprisonment has not been acted upon for seven years, the power is lost; unfortunately for us it had not been acted upon for a number of years previously, and we lost the power. Now, if that power could be brought back, it would be of much use to the manor courts.

1728. Do you not find the attachment against the goods is sufficient to enforce your decree?—I do not think it is, because a debtor may evade the law by putting away his goods, whereas he cannot put away his body so readily.

1729. Had you a prison in your manor?—No, there never was; but a gentleman who had the court before me, thirty years ago, had the power of imprisoning them anywhere within the manor he chose.

1730. Any where in the manor?—Yes, making a public-house the prison; a man was kept there. Mr. Stewart, the seneschal of Belfast, has not lost the power, because he has always issued attachments against the body. He committed to the gaol of Carrickfergus; if I had the power, I should commit to the gaol of Londonderry; that was lost to me when the law was altered ten years ago. His power was not lost.

1731. All the jurisdiction of peculiar prisons was taken away by the Act?—Yes; Mr. Stewart had a marshalsea in Belfast; that is now abolished, and he was obliged to commit to the county gaol of Carrickfergus.

1732. Is the city of Londonderry far from you?—30 miles.

1733. Then if you had the power of arresting a person upon your attachment process, would not that be a great check to the exercise of it, having to send a person so far?—I do not think it would; it would be much better to have the debtor there than in the manor of Castledawson.

1734. Do you produce a form of attachment?—Yes.

[The Witness delivered in the same.]

1735. Is there any difference in the form of your entry, when the case comes before you as an attachment, from what it is in this case?—No; sometimes we go by record, attachment, and some by civil bill.

1736. Then

1736. Then in some cases in which an attachment is issued originally the case is afterwards tried by civil bill?—Sometimes, and sometimes by record; the first court they file a declaration, the second they put in a plea, and the third the question is tried.

1737. That is under the authority of your charter which creates the court a court of record?—Yes.

1738. Then in case an attachment has been issued, and the goods are seized, are they sometimes detained in custody until the court following, or are they usually bailed?—I take bail constantly, if they get good security; if not, I let them remain where they are.

1739. Have you a regular place for their being deposited?—No; the seneschal has the power of having them placed anywhere he chooses within the manor. I generally have them put in one place in Castledawson town, but we have the power of placing them anywhere we choose within the manor.

1740. Now, after that, supposing the party to go to trial by civil bill, instead of by the court of record, how is it done then; supposing the goods are seized to-day, and in a fortnight your next court will be held?—The action by civil bill is tried the first court-day.

1741. Is the civil bill served at the time the attachment is executed, or is it served between that and the next court-day?—Sometimes it is, and sometimes it is not; I give the parties time to settle.

1742. Supposing it is served, does the case come to trial at the next court-day?—It does.

1743. And in just the same manner as if no attachment ever had been issued?—Yes, by civil bill.

1744. As far as the trial is concerned?—Yes.

1745. Now, suppose no civil bill has been served, is the party then obliged to go on in the court of record, or what time do you allow him to bring his civil bill?—We enter the plaint the first court-day, proceeding by record; the second, the defendant puts in his plea, if he chooses; and we try the action the third court-day.

1746. That process is a much more expensive one than the civil-bill process?—Yes, it is.

1747. Is it often resorted to in the course of practice?—It is sometimes, and the plaintiff has the power either to proceed by record or by civil bill.

1748. Have you ever asked the reason, or does it strike you what is the reason, why the plaintiff uses that expensive process when he has the facility of obtaining redress by the cheaper process of civil bill?—I cannot answer that question distinctly, he has the power to do so if he wishes, and he does it of his own accord to prevent an appeal to the assizes.

1749. Is the action when brought to trial on the third court-day tried before a jury, in the same way as any other action?—Just the same.

1750. Are the greater number of those cases in which attachments are issued brought to trial at all, or are a large proportion of them settled?—A great number are settled.

1751. You said just now something about allowing parties time when they wished it, or allowing parties to try the case by civil bill in which goods are attached; in case they do not issue the summons in time for the next court day, do you generally allow them that time?—It is optional with me; I do not wish to put the parties to unnecessary expense; I think they will perhaps settle it; I often do that; if I find they will not settle, of course I proceed.

1752. Do you ever allow time for that more than from one court-day to another?—I must issue the process before the first court-day after the attachment.

1753. Then how do you give time afterwards, do you postpone the case from one court-day to the other?—No; suppose I issue an attachment to-day, and the court-day is a fortnight hence, I do not issue the process for a day or two, because I think they will settle, but if not, I issue it.

1754. You do not issue the process for two or three court-days, but when it is issued, it must be tried?—Yes, it must go on then.

1755. Are there in your opinion great advantages in this method of attachment against goods?—Yes, supposing a man is leaving our manor, for instance, and taking his goods with him, then I am applied to for an attachment, and the goods are detained, whereas if the person should go out of the manor, perhaps the

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the creditor would lose the amount due to him; I certainly think attachments are highly necessary in that case. Suppose an individual leaving the country, the goods are seized, and if I do not get security to my satisfaction, of course I hold the goods over; I think attachments are highly necessary indeed.

1756. Do you require an affidavit of debt before you issue an attachment?—Certainly.

1757. Is it generally stated in that affidavit that there is danger of the defendant leaving the jurisdiction?—No, I do not think that is necessary; I only put to the plaintiff the question, is the money due; that is all that is necessary.

1758. You consider that is all that is necessary?—Yes; and if there were no attachment, the money would be lost in a number of cases.

1759. Are there any manors in your neighbourhood where there is no such process?—No; in the manor of Ballaghy they have the power of attaching, but there the court only carries 1 l. 16 s. 4 d. sterling.

1760. Do you mean there is a power of attachment in courts where the jurisdiction only goes to the extent of 40 s.?—Yes, they do attach; our charter mentions attachment distinctly against body or goods.

1761. You said the goods taken under attachment were sometimes kept in custody, and sometimes bailed; which is the most usual practice, should you say?—They are bailed mostly.

1762. Have you ever heard of persons complaining of goods being injured by goods being detained in custody until the court sat?—I cannot say I have.

1763. Do any persons practise as agents in your courts?—Sometimes they do, attorneys; not often.

1764. Do you ever allow any persons not regular attorneys to practise?—I would not.

1765. When attorneys practise are they allowed a fee of 2 s.?—The plaintiff or defendant pay the attorney themselves; I do not know what they allow them.

1766. You do not charge the fee in any case against the other party?—No; I have nothing to do with it.

1767. Then your costs are 5 s. 6 d. British upon a decree?—Yes.

1768. What is your costs upon a dismiss?—The same.

1769. That is made up in the way prescribed by the Act of Parliament?—Yes; the bailiff's fees and my own fees altogether. I cannot charge more upon a civil bill.

1770. For issuing the summons, and signing the same, you charge 1 s. 6 d. of the present currency?—Yes.

1771. That is paid whether the case comes to trial or not?—Yes.

1772. That is paid whether anything is done, in fact?—Yes, there is 1 s. for my signing, and 6 d. for the bailiff; that is 1 s. 6 d. in the first place.

1773. How is that allowed?—I charge it; I am allowed 1 s. for my own signature; and the bailiff has 6 d. for his own trouble.

1774. Do you insist that the bailiff shall always serve it?—Yes, he must serve it.

1775. What are the other items?—4 s. for entrance.

1776. It is 1 s. in the Act of Parliament for entering the plaint?—I think an Act of Parliament passed since that, about 10 years ago, which altered it.

1777. Do you only think upon a subject upon which you are in the habit of exercising your jurisdiction?—I am positive we can charge no more than 5 s. 6 d.

1778. I want to know how you make up your item of 5 s. 6 d.?—1 s. 6 d. for signing, and 4 s. for entrance.

1779. Are you quite certain under what Act you charge that 5 s. 6 d.?—It was an Act brought in about 10 years ago. There is first 1 s. for signing my name, 6 d. for the bailiff, and 4 s. for entering the plaint; that is 5 s. 6 d.

1780. You charge 4 s. upon entrance?—I do.

1781. Whether there is a decree or not?—Yes, whether it is a decree or a dismiss, I am entitled to that; that is all I am entitled to.

1782. You do not know how the 4 s. is made up?—Yes, upon entering it in the book.

1783. Upon entering it in the book you charge 4 s.?—Yes.

1784. Are

1784. Are all the cases obliged to be entered in the book before the court sits in the morning?—They might be entered the same morning; sometimes they are brought in an hour or two after the court sits.

1785. Do you ever refuse to enter a case, if it is not brought to you in the morning?—Yes, sometimes, if the books are closed.

1786. That is after all the cases are heard?—Yes.

1787. But when the books are not closed, you take every case that comes?—Yes.

1788. And you charge 4s. upon entering it?—Yes; that I am entitled to.

1789. Are you aware that the Act of the 25 Geo. 3 allows the bailiff 1s. for summoning the jury?—I am.

1790. Do you charge that?—No, I do not charge that.

1791. Are you not aware that is part of the 5s. 6d.?—No, it is not; it is quite the reverse.

1792. Are you certain it is quite the reverse?—Yes, it has nothing to do with it; my bailiff does not charge anything for summoning the jury; I would not allow him.

1793. Are you aware that what you are entitled to yourself is 1s. for signing the summons, 1s. for entering the plaint, and 2s. 6d. for the decree or dismissal?—Yes.

1794. You are aware that is all you are entitled to?—I am aware I am entitled to 5s. 6d. for a decree or a dismissal, that is 1s. for signing my own name, 6d. the bailiff, and 4s. for entering it in the book; that is what the law entitles me to.

1795. Are you aware that the law only entitles you to 4s. 6d. out of the 5s. 6d.?—No.

1796. And are you aware you take 6d. more than you are entitled to if you take 1s. for signing the summons and 4s. for entering?—No, I am not.

1797. You say the law was altered by an Act passed 10 years ago?—Yes.

1798. Have you read that Act?—I have read it. All the seneschals in my neighbourhood charge 5s. 6d. for a decree. A session decree is 5s. 10d., and our decree is 5s. 6d.

1799. That 5s. 10d. for a session decree includes a fee of 2s. for an attorney?—Yes, it includes everything.

1800. And in your court it is optional with the party whether they employ an attorney or not?—Yes, it is optional.

1801. But in the other court the party is obliged to pay the 2s.?—Yes.

1802. And that is included in the 5s. 10d.?—I believe it is.

1803. You got your appointment in the year 1814?—I did.

1804. Was your appointment for life, or at the will of the lord of the manor?—At first it was at the will and pleasure of the then lord of the manor, Mr. Arthur Dawson; and afterwards I got it from the present lord, Mr. George Robert Dawson, for my own life.

1805. When did you get the appointment for your own life?—Six years ago.

1806. Have you a copy of your appointment?—I have.

1807. Will you produce it?—[*The same was delivered in and read, and was as follows:*]

Dear Sir,

Castledawson 24 August 1832.

In consideration of your surrendering me the lease of the customs of the fairs and markets of Castledawson, I hereby bind myself, my heirs and successors, that you shall be, during your life, seneschal of the manor court of the Castledawson estate.

I remain your very faithful servant,

G. R. Dawson.

To Mr. S. D. Crawford,
Castledawson.

1808. I believe you petitioned the House of Commons, in the year 1836, against a clause in a Bill, introduced by the present Master of the Rolls (Mr. O'Loughlin) by which he proposed to abolish the civil bill jurisdiction of manor courts?—Yes, I did; I prayed for compensation.

1809. In that petition you stated as follows: "That the said manor of Castledawson is of many miles extent, and the emoluments derivable from the office are so considerable, that your petitioner took a lease of the same for the life of your petitioner"?—Yes.

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1810. In that statement you alluded to this appointment by Mr. George Robert Dawson for your life?—Yes.

1811. And it appears there was a valuable consideration paid for that lease by your surrendering an interest you had in the talls?—Yes.

1812. And in consideration of your surrendering that interest, Mr. Dawson conveyed his appointment to you for life?—Yes, he confirmed the appointment to me.

1813. Have you a copy of the former appointment, by which you were made seneschal during the will and pleasure of the then lord of the manor?—No, I have not; it was in the common form.

1814. Your emoluments consist of the fees you have mentioned upon these several cases?—Yes.

1815. Your return states the average number of processes issued to be from 50 to 60 for each court-day?—I made a mistake; I have inquired particularly since, and I find they sometimes extend to more than 100; I recollect on one court-day there were 200.

1816. You stated your idea of the average at that time?—Yes; it is sometimes 104, 110, and so on.

1817. Had you your court-books by you for the year for which the return was called for by the Committee?—No, I have not them with me now.

1818. Had you them with you last year, when you received that order of the Committee to make a return?—No, I think I had only one book with me; I had mislaid the others.

1819. You are aware there is a penalty in the Act of Parliament upon a seneschal for mislaying his court-books?—Yes, I am perfectly aware of that.

1820. And you give that as a reason why you could not comply with the order of the Committee last year, to give a return of the number of cases entered for trial, or the number of cases tried?—I left the house I resided in formerly; I went back and examined one book; I do not know where they are; they may be there now.

1821. When you changed your residence, you did not take care to bring your books with you?—No; at the time I got the order first, I searched for them particularly.

1822. Whatever the number of processes be, you have 1*s.* upon each of them?—I have; upon attachments, again, I have 7*s.* 6*d.*, and of course for decrees, 5*s.* 6*d.*

1823. How many attachments, upon an average, are there for each court-day?—Indeed, that is very uncertain.

1824. Taking one court-day with another throughout the year, are there 50 in the year?—A great deal more.

1825. One hundred?—Yes, I dare say there are 100.

1826. That is somewhere about eight each court-day?—Perhaps not quite so much; I will say 60 or 80 in the course of the year.

1827. Upon each of those attachments you have a fee of 7*s.* 6*d.*?—Yes, we have.

1828. Does that all go to yourself?—A part to the bailiff; if they go on by civil bill, it is not so much; it is 3*s.* 6*d.* upon a civil bill; and if they go on by record, it is 7*s.* 6*d.* in the first place.

1829. So that if you issue an attachment to go on by civil bill, it is cheaper than an attachment that is to be tried by record?—Yes, it is; a decree by record is 1*l.* 7*s.* 6*d.*

1830. And a decree by civil bill or attachment, what is the whole cost of that?—3*s.* 6*d.* and 5*s.* 6*d.*; 9*s.*

1831. But if that is settled before it comes to trial, there is only 3*s.* 6*d.*, and 1*s.* 6*d.* for the process?—Yes, it must be paid.

1832. The process in all cases is issued?—Yes.

1833. Before an attachment is issued?—No, and sometimes I give them time; but they pay the 3*s.* 6*d.* for the attachment whether the process issues or not.

1834. Then they pay the 1*s.* 6*d.* for the process if it issues?—Yes.

1835. Upon a rough calculation, what should you say were the whole of your emoluments for a year?—It fluctuates so much I cannot exactly say.

1836. You have been in the office 24 years, and you may be able to give an average?—I suppose 180*l.* a year and upwards.

1387. Have

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1837. Have you any fees in the shape of leet-money from the tenants?—
I never charge it.

1838. Does the charter give you a power to do so?—Yes, but I never do so.

1839. Do you hold courts leet in your manor?—Yes, they meet once a year; we have the power to make bye-laws as to rates of trespass, disputed mergings, &c.

1840. And the fees of the pound-keeper?—Yes; that is repealed now, I believe; I know of no Act to repeal them, but I believe it is repealed.

1841. Are there many appeals entered against your decrees?—A great many; and that is one thing I wanted particularly to mention to you; that is one great grievance the manor courts labour under, those appeals. I have known an appeal lodged in a case for cash advanced, or goods sold and delivered; when an action is tried before the jury, and a verdict found for the plaintiff, the defendant comes to me and says, "I want to lodge and appeal." "What are your grounds?" "No ground, but I want to gain time until the assizes come on." Then I am completely barred from issuing the decree; the defendant tenders 1*s.*, and I must put that upon record; the plaintiff lays out of his costs in the meantime, and also the amount due. What I should propose to be done is this: before an appeal should be entered by me, that an attorney should appear in open court, and make an affidavit that there is just ground for lodging such an appeal, whereas, as the law stands now, the defendant is not called upon to make an affidavit to that effect; there is no law to enforce it.

1842. Then you would allow no person to appeal but such as could fee an attorney to appear for him?—If an attorney, or any respectable person appeared for him, and maketh oath there is a just ground for appealing, I should not object; at present they can do so without any affidavit, which I think is a great grievance.

1843. They very often gain six or seven months by that?—Yes.

1844. How far is the assize town from your manor?—Thirty miles.

1845. Is not that a grievance to those who have a just ground of appeal, having to travel so far with their witnesses to attend the trial?—Yes; and I am barred from enforcing the decree in the meantime; I think it is a very hard case upon the plaintiff.

1846. Is it not sometimes a hard case upon a defendant?—Yes, but that is only one time in 50 or 100.

1847. In that one case, in any court, where a verdict is pronounced wrongfully against the defendant, is it not a great hardship on him to have to go 30 miles with his witnesses to try the appeal?—Yes, but the objection now is, that he is not compelled to make an affidavit, even in a case of cash advanced, or goods sold and delivered; he comes and lodges an appeal by paying 1*s.*, whereas if a respectable person, or an attorney were to make an affidavit that there is a just ground for the appeal, it would alter the case entirely: at present, I think it is a great hardship.

1848. If appeals could be tried more frequently, would it not be an advantage?—It certainly would; the assizes are held twice a year.

1849. Suppose appeals could be tried four times a year?—The question is who would try them.

1850. Suppose there was a tribunal established for the purpose of trying them?—I think it would be very proper that the defendant, or some person for him, should make an affidavit that there was just ground for lodging the appeal.

1851. Would that remove all evil from the present system of appeals?—I think it would.

1852. All?—I do not know that it would remove all.

1853. Would it not leave the evil exactly as bad as ever in a case where the defendant had a just ground of appeal?—Not at all. What I mean is, that any respectable person should come forward, and state that the defendant has a just ground for lodging the appeal; whereas, as the law stands, he may lodge it without any ground at all.

1854. Is there never an appeal lodged with just grounds?—Indeed there is very few.

1855. Taking the case of those few, suppose an affidavit were obliged to be made,

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made, would not all the hardships which press upon a defendant with a just cause of appeal remain as bad as ever?—Not at all; the judge tries the case. If there is just ground for lodging the appeal, why not make an affidavit.

1856. Suppose an affidavit to be made, and suppose every one was required to make an affidavit, if there were then any persons who had not just grounds of appeal, would there not be a temptation to such persons to perjure themselves?—There might; but I would propose that a third person should come forward and make an affidavit that there were just grounds for lodging the appeal.

1857. Supposing that done, and that no appeal would then be lodged unless there was a just ground; supposing that to take place, do you think it fair upon the defendant, who has a just ground of appeal, to be obliged to travel 20, 40, or 50 miles to the assize town, and wait there, with his witnesses, at a considerable expense, until his appeal is tried?—Yes; but he cannot help that.

1858. If we alter the law in one respect, we can in another?—Yes.

1859. Have you ever thought what would be the effect if the appeal were given to the barrister at quarter-sessions?—I have thought of that.

1860. What is your opinion of it?—I think I would rather have it tried before the judge of assize.

1861. Why?—Because he is more learned in the law than a barrister.

1862. Do you think no one is fit to decide upon manor court cases except those who are exceedingly learned in the law?—No, I do not think any such thing; but I think it would give more facility for lodging appeals, if tried before the barrister; that is another reason.

1863. Do you think it would give more facility for vexatious appeals?—Yes.

1864. Then you think it would give more facility for vexatious appeals, if the party were sure it would be tried in two or three months, instead of in six or seven months?—It would.

1865. Then, in fact, you do not like appeals at all?—In some cases I would recommend them; in intricate cases.

1866. You would recommend appeals generally in intricate cases?—Yes, upon points of law; difficult points of law may take place.

1867. You recommend appeals in such cases?—Yes, I often do recommend them.

1868. Are there any cases so intricate that you think the assistant barrister would not be a competent judge of them?—I think he would.

1869. Then, in intricate cases, in which you recommend an appeal, what harm would there be in giving a person a facility of trying his case within four or five miles, and trying it at a nearer period than the assizes would enable him to try it?—I said before, the further they have to go the greater would be the barrier to those appeals; I think it is a very unjust law.

1870. The law which allows parties to appeal?—Yes, on account of not being obliged to make an affidavit.

1871. Suppose an affidavit were required, and that then the appeal were allowed to be tried before the assistant barrister?—I should be very well satisfied if a person came forward to me and made an affidavit that there was just ground; that is all I want.

1872. Then, in that case, you think there would be no harm in having them tried before the assistant barrister?—Not the least.

1873. Have you ever any disputes as to your jurisdiction; as to whether any particular place is within your manor or not?—I conceive I can hold the court any where I choose within the manor.

1874. Have you ever any dispute as to whether any township belongs to your manor or not?—No.

1875. The bounds are very well defined?—Yes, very well; it is a very populous place, Castledawson manor.

1876. Do manors extend generally over the whole of the county?—I think they do; I do not know much about Coleraine or Derry.

1877. I mean in your part of the county?—Yes, there are manors there.

1878. Do you know any part of a county which has no manorial jurisdiction over it?—I do not know about Coleraine or Derry, I think they have courts there;

there; there is a manor court in Ballaghy, at Moneymore and Magherafelt; and generally speaking, I think there are courts all over the county.

1879. Do you find that diminishes the quantity of business in the assistant barrister's court?—I must say if those appeals were diminished, I think it would add much to the business of the manor courts.

1880. You think the system of appeals takes business out of the manor courts?—Certainly; why would a man apply to us when he is kept out of his money and his costs six months; whereas if a third person came into court and made an affidavit that there were just grounds for appealing, that is all that is necessary. I think it must have been a flaw in the Act in former times.

1881. Without talking of what may be, will you state what is the state of things; is there much business done in the assistant barrister's court?—There is a vast deal.

1882. How often are the sessions held in the town of Magherafelt?—Twice a year, January and July; I think they are held in Derry again, Newtonharry and Coleraine once a quarter; every three months.

1883. Are you in the same division of the county as Derry?—We are in the division of Coleraine.

1884. And the sessions are held twice at Magherafelt, and twice at Coleraine?—Yes.

1885. Then in fact they are half-yearly sessions, with a half-yearly sessions at Coleraine?—They are held twice a year with us at Magherafelt; once in January and once in July.

1886. Supposing the cause of action arises in February or March, if persons do not choose to wait until July they can try their process at the Coleraine sessions?—Yes, it is the same district.

1887. How far is Coleraine from you?—Twenty-one miles.

1888. Has there been any application made since the new Act for sessions four times a year at Magherafelt?—I have not heard of any.

1889. Do persons complain of having to go 21 miles to Coleraine?—They do.

1890. Are you acquainted with Mr. Miller, the seneschal of the manor of Drapers, which is held in the town of Moneymore?—Yes, I am.

1891. Are you aware that he stated in his return to this Committee last year, that persons frequently have complained to him of the expense and trouble they have been put to in having to attend the Coleraine sessions?—Yes, it is a distance from him; it is 27 miles from his place.

1892. Do you not think that might be prevented if you had the power of holding the court four times a year in your part of the division?—I think it might; they would much rather go to the manor court only for those appeals; that is my idea now.

1893. You speak of the tenantry of Castledawson?—I speak of the country generally, including the tenantry of course; if this law were repealed or altered, I think the people would be perfectly satisfied.

1894. Is the pecuniary jurisdiction of the other manor courts in your neighbourhood, in general, equal to yours?—Not all; there is one at Toome Bridge, Lord O'Neill's manor, which has the same charter as Castledawson has; but Ballaghy, and Moneymore, and Magherafelt, they are only 2*l.* Irish.

1895. Do any persons in the neighbouring manors complain that they have not so large a jurisdiction as your manor has?—Yes, they do.

1896. Are many seneschals magistrates in your county?—There are some; there is Mr. Hunter, who is seneschal of the manor of Vintners, belonging to the Vintners' Company, of London, which adjoins us; and Captain Miller, of the manor of Drapers.

1897. Is he a magistrate?—Yes.

1898. Is the seneschal of Magherafelt a magistrate?—Yes, Mr. Spottiswood.

1899. How long has he been seneschal?—Not more than six months.

1900. The last seneschal was not?—No, he was not.

Mr.
S. D. Crawford.
29 May 1898.

James Barry, Esq. called in ; and Examined.

James Barry, Esq.
29 May 1838.

1901. Mr. *Littos*.] WHAT is your profession?—I am a solicitor.
1902. I believe you are seneschal of three manor courts in the county of Tipperary?—I am of four.
1903. Lord Glengall's courts, I understand?—Yes.
1904. Where are those four courts situated?—In the upper part of the county of Tipperary; principally in Iffa-offa West.
1905. Are all four of them situated there?—Part of one of the manors runs into Iffa-offa East; two of the manor courts are brought into one; one was small; they joined one another, and a court has been held in one manor for the two.
1906. Then there are four manors, but only three courts?—Yes.
1907. Which two manors are joined?—Rehill and Ballylooby.
1908. Are both in the same barony?—Yes.
1909. That is Iffa-offa West?—Yes.
1910. What are the names of the other two?—Caher and Castlegrace.
1911. Is Caher in the same barony of Iffa-offa West?—Yes; there is part of Caher, about 200 acres, in Iffa-offa East.
1912. Will you describe how it is that one court is held for the manors of Rehill and Ballylooby; are they two distinct manors?—One is a sub-denomination of the other.
1913. Two distinct manors, with one court?—It was originally so mentioned; in the patent it mentions Rehill and "burgess land," a part of Ballylooby and Burgesslaw.
1914. Mr. *Jephson*.] Then there is but one patent for the two manors?—There are three manors, but only one patent; all are stated and named in the one patent.
1915. Mr. *Littos*.] Then what are the names of the two manors for which there is only one court held?—Rehill and part of Ballylooby.
1916. Why do you say "part of Ballylooby"?—Because it runs, in an odd sort of way, into the lands of Ballylooby, and is so mentioned in the patent for holding the manor court; for Lord Waterpark's property runs into part of Ballylooby, and he claims to hold a court for part of the manor.
1917. The court at Caher, what manor does that comprise?—The manor of Caher alone.
1918. What does Castlegrace comprise?—The manor of Castlegrace alone.
1919. That of Rehill comprises the manor of Rehill and part of Ballylooby, and the other part of Ballylooby is presided over by part of the manor of Lord Waterpark?—There is no manor court held there, nor has there been; but he claims a right to part of the manor of Ballylooby or Burgesslaw.
1920. Then I understand that the jurisdiction of the manor court of Rehill only goes over a part of Ballylooby?—A very large part.
1921. Mr. *Jephson*.] Was that part of Ballylooby which is presided over by the seneschal of Rehill mentioned in the patent by which the court of Rehill is entitled to sit?—It was, and it was so decided by the judge of assize on appeal. The question was tried by appeal before Judge Johnson, at the time Lord Waterpark was claiming the entire manor of Ballylooby as to the question merely whether it was or was not; and the judge was perfectly satisfied, upon looking at the patent, that it was comprised within it, thereby affirming the decree.
1922. Mr. *Littos*.] Will you describe to what extent is the jurisdiction of each of those three manor courts respectively, as to the recovery of debts?—Five pounds Irish upon book debts, and 10*l.* upon bills of exchange and promissory notes.
1923. Then there is no difference in the jurisdiction?—None.
1924. Have they any other jurisdiction, save over book debts and promissory notes?—No; there is a power in the patent of holding courts leet and view of frank pledge, but that is never exercised.
1925. But with respect to property, they have no other jurisdiction but what you have described?—None, but in actions of trespass.
1926. What kind of trespass, to land or to the person, or both?—Trespass to land.
1927. Only trespass to land?—Only that.
1928. To what extent does the jurisdiction go in that respect?—Forty shillings.

1929. Only

1929. Only 40s. i.—Only to that.

1930. Mr. *Jephson*.] Do you mean to say that actions of debt can be recovered to the amount of 5*l.* or 10*l.*, and actions of trespass only to the amount of 40*s.*?—Yes.

1931. Is that specifically stated in the patent?—Yes.

1932. Mr. *Litten*.] You are sure that is the case?—Yes; but as long as I have been seneschal, no action of trespass has ever come before the court.

1933. How long have you been seneschal of those three manors?—Eighteen or nineteen years.

1934. Did your appointment to all commence at the same time?—It did.

1935. Then you do not take upon you to speak positively as to the actions of trespass, but the jurisdiction as to book debts and promissory notes you have described already?—Yes.

1936. May I ask what is your salary as seneschal of those three manors?—There is no salary attached to it, except from the fees of the office.

1937. What is the process of these courts for the recovery of book debts and promissory notes, and for having the appearance of parties to actions of trespass?—It is in the form of a summons, signed by the seneschal of the manor, and dated seven days before the holding of the court. It requires three clear days' service. It is the 7 & 8 Geo. 4, which regulates that; the former service was much longer.

1938. Have you in these manors, or either of them, a process by attachment?—No.

1939. Or a distress upon goods to compel an appearance?—No.

1940. Then you have no taking either of the person or of the goods in either of those manors, as I understand you, except in execution?—None.

1941. And if the party does not appear on summons, what is your course of proceeding then?—The service of the process or summons must be proved by the bailiff of the manor, that it was served three clear days before the court; and if the party does not appear, the case is proved by a witness, if over 40*s.*, as the power given by the 7 & 8 Geo. 4 to the seneschal is to swear the plaintiff in any suit or action as far as 40*s.*

1942. Does that answer apply to cases of trespass to land?—As I mentioned before, I never tried an action of trespass.

1943. That is as to book debts?—Yes.

1944. Supposing the amount is larger than 40*s.*, as you said you had a jurisdiction to 5*l.* on book debts, and 10*l.* promissory notes, must there be a witness?—There must always be a witness, or there can be no decree.

1945. Mr. *Jephson*.] You made a return to this Committee, I believe?—Yes.

1946. By that return it would appear that the three manors of Rehill, Caher, and Castlegrace were held by Lord Caher, under one patent?—Yes.

1947. They are not separate patents?—No, they are not; I stated there were three separate manors, but only one patent.

1948. Each court is held then for the entire of the three manors?—Each court is held separately for each manor; the manor of Caher is a manor in itself, so is the manor of Castlegrace, and so is the manor of Rehill.

1949. But in the returns you have made you have placed them altogether?—As to Caher and Castlegrace, very likely that was the return I made.

1950. In case a cause of action arose in Rehill manor, would you try that case in the court of Caher?—Never.

1951. You would keep them always distinct?—Always. If there are two persons joined in a promissory note, and one lived in the manor of Caher and the other in the manor of Castlegrace, or the manor of Rehill, I always recommend the parties to go to the quarter sessions.

1952. In your return as to the extent of the pecuniary jurisdiction, you state it thus: "The extent on the recovery of debts is 5*l.* Irish, by book account, and 10*l.* Irish by promissory note." Will you, as nearly as you can recollect, state to the Committee the words of the patent by which that jurisdiction was granted?—I am unable to do so from recollection.

1953. Mr. *Litten*.] You have mentioned, which is important information, that in all cases under 40*s.*, if the party does not appear, the plaintiff's own swearing is taken; but if it be above 40*s.* that is sought to be recovered, there must be witnesses?—There must.

James Barry, Esq.

29 May 1838.

1954. Is that the same in case the party does appear to the summons?—
Yes.

1955. So that even if he appear, the swearing of the plaintiff is taken against him if the demand be under 40 s.?—Yes, if he has no witness; if there are witnesses on both sides, the court has the power of swearing the plaintiff or the defendant, if there be any doubt about it. The statute of the 7 & 8 Geo. 4 gives that power.

1956. In the common mode of practice, if the parties appear, do you commence the proceeding by swearing the plaintiff, or do you ask him whether he has a witness?—In every case I ask him whether he has a witness.

1957. Suppose the defendant is prepared with a witness, and the plaintiff is not prepared with a witness, in such a case as that is it the usage of the manor courts to examine the plaintiff?—Under 40 s. it is. The greater number of cases tried in each manor do not exceed 40 s., but are considerably under it.

1958. Even in that case the plaintiff is examined?—Yes.

1959. So that the jury might, if they pleased, find upon the plaintiff's swearing against the evidence of the witnesses for the defendant?—They might do so.

1960. As well as against the defendant's own swearing?—Yes, they might do so.

1961. In other words, they may examine either the plaintiff and defendant, and give such weight to his testimony as they think fit?—Yes, they have that power.

1962. Have you ever known a case in which there has been a verdict, finding for the plaintiff upon his own swearing against the defendant's swearing, both parties being without witnesses?—I will not be positive in saying that, it so seldom occurs; I do not think, within my knowledge, for a number of years, it ever occurred. Either party, if it were a litigated matter, would have witnesses.

1963. Then, in the great majority of cases, I understand you to say there are witnesses on both sides?—There are.

1964. Then, if the subject-matter is over 40 s., and the defendant does not appear, do I understand that in such a case the verdict is taken upon the examination of witnesses?—Yes.

1965. And never without it?—Never.

1966. Now, when a verdict has been had, what is your species of execution for the amount?—By decree against the goods of the defendant alone.

1967. And not against the person?—Not against the person.

1968. There is no proceeding, either by attachment or summons, to compel the appearance, or by execution against the person?—None.

Jovis, 31^a die Maii, 1838.

MEMBERS PRESENT.

Mr. Beidgerman.
Mr. Litton.
Captain Meynell.

Mr. M. J. O'Connell.
Mr. Redington.

MORGAN JOHN O'CONNELL, Esq. IN THE CHAIR.

Mr. *Edward Patrick Macdonnell*, called in; and Examined.

1969. *Chairman.*] ARE you in any profession?—No.

1970. Where do you reside?—At Cahir, in the county of Mayo.

1971. Are you acquainted with any manor courts in your neighbourhood?—
I am.

1972. Have

1972. Have the goodness to state to the Committee what the names of those manor courts are, and who are the seneschals?—The manor of Castlemore, of which the Reverend Joseph Seymour is the seneschal, and the manor of Castlebar, of which Mr. Sinclair O'Mally is seneschal; I have been present once or twice at the manor of Westport, of which Mr. Clendinning is seneschal.

1973. Is the manor court of Castlebar still in active operation?—Yes.

1974. Has the seneschal sat in his court within the last year?—I should think he has within the last year; Mr. O'Mally is very often from home, he is agent for Lord Lucan, but his court is advertised for the second Friday in every month.

1975. It was so during the last year?—Yes.

1976. Can you assign any reason why he has not made any return to this Committee concerning his court?—I cannot; I never heard that he was applied to.

1977. Where does the clerk of the peace for your county reside?—At Bal Enrobe.

1978. Is that near to Castlebar?—It is 14 miles.

1979. Do you think he is aware of the existence of the court of Castlebar?—I am certain he is, for it is held in the very court in which he has an office.

1980. Which of those courts are you best acquainted with?—Castlemore; that is in the barony I live in.

1981. The Reverend Joseph Seymour is the seneschal of that court, is he not?—He is.

1982. Are you aware that he was examined before this Committee in the course of last session?—I am.

1983. Have you often attended that court?—Very often.

1984. The court is held, as appears by Mr. Seymour's evidence, in three places; Ballaghaderreen, Ballshannish, and Carra Castle?—Yes.

1985. Have you attended the court in all those three places?—Yes.

1986. In Ballaghaderreen it appears that the court is held in a court-house, and in the other two places in rooms, which either do or did belong to public-houses?—In Ballshannish it was generally held in the house of a man of the name of Lynes, one of Mr. Seymour's bailiffs; and also the special sessions, under the late Act, were held in the same house, there was no other place to hold them.

1987. Have you ever attended as a juror on any occasions in that court?—Very often.

1988. Are the juries generally, or the greater part of them, summoned from a respectable class of life?—As far as it can be done; there are several of them on the special panel of the county.

1989. Are the jurors regularly summoned to the court?—I have never known an instance of that, except two or three times; Mr. Seymour very often, when he is about to have a court at a particular place, writes to the gentlemen near that place to request their attendance.

1990. As a favour?—Yes.

1991. You say you are yourself within the manor of Castlemore?—There are several small estates which claim exemption from the manor; I am the proprietor of one of those, but from the manner in which it is worked all through I have never made an objection.

1992. Are you aware whether your estate ever was known to have belonged to the manor?—I am not; my father and my grandfather were seneschals of that manor, and it was not likely they would themselves curtail their jurisdiction.

1993. Have you seen the patent?—Never; but Mr. Seymour told me that it mentioned the words "upper and lower barony, and the estate of Manning."

1994. Does it include the property you hold?—No.

1995. So that there is a doubt whether you are properly resident in the manor in which you have acted as a juror?—Mr. Seymour has never had a doubt; some of the old proprietors never have made an objection, but some of them say that they were told formerly that none of their lands were within the manor, but that is only to a small amount.

1996. Mr. Seymour returns the manor as comprising the whole of the barony of Costello?—This is just at the end of the barony.

1997. Is your land surrounded by lands which are the property of Lord Dillon?—

Mr.
E. P. McDowell
31 May 1838.

Dillon?—Yes, above and below; Lord Dillon's land runs through the barony. The Costello barony includes the lands of Cahir; there are a number of small properties, each having the same name; part of Sir William Brabazon's property runs into Costello, and his people have always been summoned to the manor court, and there has been no objection made.

1998. All those properties are within the barony of Costello, over which Mr. Seymour has jurisdiction?—Yes.

1999. Do you find that good order and regularity are kept in those courts when you have attended?—Generally speaking, very good; the country people, when they are defeated, are generally loud in their conversation; but generally speaking, there is very good order kept.

2000. That loudness of complaint at the moment is soon suppressed?—It is.

2001. The seneschal, the Rev. Mr. Seymour, is a magistrate of the county?—He is.

2002. Does not that give him a weight and influence over the people, which he would not otherwise have?—I should think not, for I never saw him exercise his authority as a magistrate; he has been a long while with them, and I think his influence as a country gentleman is very great.

2003. Are the other seneschals you are acquainted with all magistrates?—Yes, all three.

2004. And all, of course, gentlemen of respectable station of life?—Mr. O'Mally is the agent of Lord Lucan, who is the proprietor of Castlebar; Mr. Glendinning is the agent for the Marquis of Sligo, and several of the great proprietors in the country; besides, there has been a fourth seneschal appointed, in Newport Pratt, who, I believe, is a half-pay officer, Mr. Lundy.

2005. Are you aware that there is a court at Kilbally?—Yes.

2006. Is the seneschal of that court a magistrate?—I think he is not; he is a Mr. Cooper.

2007. He states himself in his return to be a merchant?—I am not aware what he is.

2008. Are the juries always the full number of 12?—Always.

2009. Have you ever known persons who were about to be put on the jury challenged by any parties who came into the court?—I have.

2010. What cause of challenge have you known brought forward?—It very seldom occurs; but some are challenged on account of relationship, others from pre-expressed opinions, and it often happens that country persons have a spleen against each other, and one would say, I "should not like that such a man should be on the jury."

2011. Is that considered a sufficient reason?—The seneschal always removes the person.

2012. He has always a sufficiency of good jurors in attendance to do that?—Yes.

2013. Have you any of the class of small farmers in the country on those juries?—Yes.

2014. Do you find them generally intelligent and suitable persons as jurors?—Very much so. The matters in dispute are generally between the country people; for instance, for provisions sold and dealings of that kind, and they are, in point of fact, as good judges as persons in a higher rank of life.

2015. Have you ever known jurors themselves object to serving?—I have.

2016. In those cases in which dealings for provisions are the subject of actions in the court, has there ever been any complaint with regard to usurious bargains?—Very often.

2017. What is the general practice of the juries in your part of the country when they find a bargain for oatmeal or flour, or matters of that kind, made on usurious terms?—In the first place, some poor persons take the provisions for a twelvemonth on credit, then if the person is not paid for a year or two afterwards they allow more; but, generally speaking, they cut down as far as possible, to allow the person selling a fair remuneration for the loss of time, and they also, as far as they can, look into the quality of the provisions given. Great numbers in that country are obliged to take their seed oats on credit, and some their potatoes for seed.

2018. The jury, in fact, on no occasion lean unfairly in your opinion towards that class of persons who profit by such bargains?—No; I think they generally act

act as a sort of arbitrators between them, and give them fair play on both sides. I have hardly ever seen a defendant go away dissatisfied. Sometimes they are obliged to pass notes at an exorbitant rate of usury; and I have never known the jurors hold the notes to be final and good beyond the original value; some will not give their provisions until they get promissory notes for them, with some other person signing with the persons who buy, as further security.

2019. Have you ever cases before you where the witnesses are unable to speak the English language, and express themselves in Irish?—Yes.

2020. The juries in general understand the Irish language, do they not?—In general they do.

2021. Is the seneschal sufficiently acquainted with it?—Mr. Seymour understands it pretty well, but he does not speak it.

2022. He knows the substance of what is told to the jury?—Yes.

2023. Do you find that the circumstance of persons being obliged to tell their own story in the language they can speak best, without the intervention of an interpreter, gives them confidence in the decisions generally?—Yes; we often find that when a person is engaged in giving evidence by interpretation, he will begin in the middle to express himself in Irish.

2024. Do you find that persons who can speak English wish sometimes to be examined in Irish to avoid a rapid cross-examination?—Yes.

2025. Upon the whole, does the administration of justice in your court give satisfaction to the people?—I should think so, there are very few appeals.

2026. With regard to appeals, a practice prevails in that part of the country that the party appealing is obliged to lodge double the amount of costs in the court?—Yes.

2027. Does not that tend to check undue appeals?—I think it would where the amount was very small; but on the other hand, it is a great protection to the plaintiff. Appeals are generally lodged for the purpose of gaining a little time; they hardly ever go on.

2028. Are you acquainted with the other courts of the country sufficiently to say whether the lodging double costs prevails in them also?—I am not; but I know the entrance money is the same at Castlebar, for I have land near the town, and have had occasion to enter some processes there.

2029. That is the system of making a party pay 4*s.* 6*d.* whether the case goes to a final decree or not?—Yes; but Mr. Seymour's practice is, in the event of no decree or dismissal, to return 2*s.* 6*d.* of that.

2030. That is in case the process is what is called "nilled"?—Yes.

2031. But if a decree is pronounced, or a dismissal, he retains it?—Yes; whenever a dismissal has been pronounced, they generally take it out for the purpose of preventing farther litigation; the defendant is glad to get it, for it costs him nothing.

2032. Are there many parts of the county of Mayo you are acquainted with in which there are no manor courts?—Yes; for instance, the barony of Gallan, next to me; my grandfather and father were seneschals of that manor; the right of the appointment of the seneschal of that manor was taken from Lord Dillon, and I am not sure that there has been any seneschal since.

2033. By whom is it now claimed or possessed?—I am not sure, whether Sir William Henry Palmer or Mr. Knox; I should rather think Sir William Henry Palmer, but my father, I believe, was the last seneschal who held the manor under Lord Dillon.

2034. How long is it since he held that seneschalship?—A great number of years; it was then an office of great emolument; there were no sessions; he made 800*l.* or 1,000*l.* a year; the then manors comprehended a great part of the county of Mayo, that was before the civil bill courts were established.

2035. After that it was some time before the sessions were held in a convenient situation for the barony of Gallan?—It was only last year Sir William Brabazon got the sessions at Swinford, that is in the barony.

2036. The establishment of a sessions at Swinford does away with any inconvenience the inhabitants sustained from the loss of their manor court?—I believe there are a very few of the inhabitants who ever saw the manor court held there.

2037. In the barony of Costello do you obtain the benefit of the Swinford sessions?—No; Swinford and Costello were, before the change, in the same division, but they are now separated; it would be a great benefit to us if our barony was attached to Swinford; there is a part of it 40 miles from Ballinrobe.

Mr.
E. P. Madden?
31 May 1838.

2038. Is that your nearest sessions?—No, Claremorris; but there is but 10 miles between them; our barony runs round Swinford.

2039. Your county borders on the counties of Sligo and Roscommon?—Yes, our barony borders on Sligo and Roscommon, and I think Galway.

2040. It would appear that the Privy Council, in newly arranging the divisions of your county, have not given much consideration to the local circumstances of the barony of Costello?—It appears not by that.

2041. Have you heard it complained of elsewhere that the divisions were made hastily, and sometimes inconveniently for particular places?—I do not think there is any complaint in any part of the county, except for Costello; the rest were arranged some months since. There was a memorial got up by the gentlemen of the barony to have a sessions at Ballahaderine, that is the only town where there is accommodation, such as a court-house; but Ballyhamis would be somewhat more central.

2042. What answer has been made to that memorial?—I never heard of any answer.

2043. It has not been complied with?—No.

2044. How far are you from the town of Swinford?—About seven miles.

2045. Sessions are held there twice a year?—Yes.

2046. How far would Swinford be from the place which is furthest from Claremorris?—From 13 to 14; Ballahaderine is between 13 and 14 miles from Swinford.

2047. What are the sessions towns besides Swinford?—In Swinford twice; in Ballena twice, and adjourned from Ballena to Belmullet once a year.

2048. The second division is Claremorris and Ballinrobe?—Yes; twice a year in each.

2049. And the third division Castlebar and Westport?—Yes; twice a year in each.

2050. Do you conceive it would be more convenient to the county generally, and to your own district also, considering its locality, if you were to have a sessions court at Swinford, or if you were to have a separate sessions at Ballahaderine?—I think it would not answer to attach the whole barony to Swinford, for there are parts of the barony within eight or nine miles of Claremorris, but there are some parishes which I think might be very usefully attached to Swinford.

2051. Without dividing a parish into two parts, you think you might make that arrangement?—Yes; but there are two parishes; the one in which Ballahaderine is situated, and the next to it, for which it would be very useful to have a court at Ballahaderine; for the others I think it would be useful to go to Swinford.

2052. It could be done without incurring the expense of new court-houses, or the barristers travelling further?—Yes, except travelling to Ballahaderine.

2053. How often is the manor court of Castlemore generally held?—I should think once in three weeks, or within once a month, at all events.

2054. Held alternately at those places?—He holds his court at Ballahamis, for convenience, generally before the sessions at Ballinrobe and Ballahamis.

2055. Mr. Redington.] Is there a great deal of business done in those manor courts?—Yes, there is.

2056. In what way does the holding the manor court just before the sessions particularly convenience the inhabitants?—There are generally a great number of civil bills tried there before the sessions.

2057. Do you think if there were greater facility of going to the quarter sessions; in fact, if the quarter sessions were held in a more convenient and contiguous spot, the people would prefer bringing their causes on before the barrister's court to bringing them before the seneschal?—I think not; going to the barrister's court is attended with very great expense.

2058. Do you mean an expense caused by distance, or the process of proceeding there?—From distance, and the uncertainty of time they are likely to be kept from home.

2059. Supposing those two obstacles to be removed, and that both courts stood in respect of travelling on the same footing, the people would prefer going to the seneschal's court to going to the barrister's court?—I think in some instances they would prefer going to the seneschal's court; there are a great many actions brought that could not be entertained at the barrister's court.

2060. Supposing

2060. Supposing the question to refer to those cases that would certainly be entertained?—I think if a person wished to have a decree put into force at once he would prefer the barrister's court.

2061. Do you mean that the cases would be such as the barrister could not legally entertain?—Yes; I have seen such cases, and a judge of assize has always ruled in favour of the seneschal's court; for instance, the seneschal's court will not try any case of trespass, but the seneschal will try questions relating, though not upon the title, to bargains about farms and small divisions of land; he will not go into title, but questions of connere, and so on.

2062. You state that there are some cases the barrister would not entertain, and that, in consequence of that, persons would be more inclined to go to the seneschal's court; if those cases cannot be legally entertained by the barrister, would you consider it a hardship if they were prevented carrying them to the seneschal's court?—There are cases in which poor people would have a good cause of action, where they would be at once dismissed at the sessions by a frivolous objection, and they would not have an opportunity of trying it again through want of means; now there is no such objection allowed in the seneschal's court.

2063. What is the difference of expense?—I should think very little; the expense at the session is something more.

2064. There are some places near to which the sessions sit, and where there are also seneschal's courts in the same districts?—Yes, there are.

2065. Do you find that in those parts of the country the people are more willing to go to the seneschal's court than to the barrister's court?—There is no seneschal's court has such a territorial jurisdiction as Castlemore; at Castlebar they go only a mile round the town.

2066. *Chairman.* Within that circle of a mile round the town of Castlebar, do the people in general come into the manor court, or the barrister's court?—The manor court there is a very irregular court as to its sittings, and that may very often deter persons from bringing their civil bills there.

2067. Are there any others in the neighbourhood?—Yes, the manor court of Westport.

2068. What is the district that comprehends?—I should think Lord Sligo's estate.

2069. That extends some miles round the town?—Yes.

2070. Do you find that in those cases the people prefer the manor court to the sessions?—Yes, in some cases; they do not like to go far from home.

2071. Take persons living within a circle of four or five miles of Westport, do they generally bring them to the sessions court or the manor court?—I am not so well acquainted with Westport, living at a distance; but with regard to Castlemore, I am acquainted with the proceedings.

2072. Have you heard complaints of decisions in manor courts?—Yes, I have.

2073. Have you heard complaints of decisions at the sessions?—Very often.

2074. Are the decisions of the sessions very often reversed?—Yes, very often.

2075. Are the decisions in the manor courts as often reversed?—Very seldom, there are very few appeals from the manor courts.

2076. Are you aware what is the amount to which those courts can go?—Mr. Seymour's goes to 10*l.* Irish; in the Castlebar court, I believe Mr. O'Mally says his power is unlimited.

2077. What is his practice?—I have once seen process for 50*l.* there, but it was not tried; I am not sure whether there was not some arrangement between the parties. As to the Westport court, I am not aware of the extent.

2078. Before the sessions were held at Swinford, where did the people of that district attend the assistant barrister's court?—Claremorris and Ballinrobe; it was in the same division then.

2079. Had they as far to go as people from the remote parts, or nearly?—The remote part of Gallan was a very remote distance.

2080. Do they complain very much of the want of a near court for the recovery of their small debts?—Of course they do, and it is a very great hardship on jurors they are obliged to go to Ballinrobe sometimes.

2081. Have they ever made an application to the lord of the manor to renew the appointment of the seneschal, and to renew the manor court in that district?—I am not aware; there is no court held there now.

Mr.
E. P. Macdonnell.

31 May 1898.

2082. If they had made such an application, do not you suppose you should have heard of it?—I should, I believe; there is some dispute who is the lord of the manor; I heard that Lord Dillon formerly had the chief-rents of part of the barony on which he appointed a seneschal, but I have reason to know that my father was the last seneschal appointed by Lord Dillon.

2083. Did the late Lord Dillon ever sell these chief-rents?—I am not aware that he did.

2084. Are you aware how he came to lose the lordship of that manor?—No; whether it was by any legal proceeding I do not know. I heard some time since that Sir William Palmer intended to appoint a seneschal.

2085. Do you think he now perseveres in that intention, considering that they have sessions in the barony?—I have not heard of it of late; it was from his law agent I heard it some time ago.

2086. Are there any other districts in your neighbourhood in which there are no manor courts?—I do think that there are; there is no manor court held in the barony of Clannorris. I do not know that there ever was one.

2087. And not at Castlebar, except for a mile round the town?—No.

2088. Do the people round that circle complain of the want of such a court?—I never heard that they did; they have two sessions towns near them; Westport is only eight miles from Castlebar.

2089. Have you ever heard that property was less valuable in consequence of the absence of a manor court?—Never.

2090. Do you not conceive that the satisfaction which you mentioned to prevail generally with the manor court proceedings in your county may be attributed largely to the fact of the seneschals being respectable men?—Certainly.

2091. If the lord of a manor were to be careless about his appointment, and to appoint those in whom the people have no confidence, would that have a very great effect?—Certainly; in the first place, no gentleman would attend as a juror, a great many persons in my barony who attend do it out of personal compliment to the seneschal.

2092. If the seneschal, though a very respectable man, were to be personally disagreeable to the respectable inhabitants of the manor, he would feel a difficulty probably?—Yes, unless he resorted to harsh measures; but the fine he can impose is only 20s.

2093. You might, under your circumstances, resist that fine?—I might, but I have never availed myself of it. I should state, however, that I am also a tenant of Lord Dillon's within two miles of my residence, and there is a clause calling upon me to do suit and service; it is under a lease taken by my father from the grandfather of the present Lord Dillon.

2094. There can be no doubt you are a tenant of the manor, though you may not be resident within it?—Certainly; I am a tenant of the manor at all events.

2095. Do attorneys ever practise in the manor courts?—Very often.

2096. Do you find that attended with any advantage?—The seneschal, I think, generally finds it an advantage, in case he has two; they are generally one on each side. I think if attorneys were to attend constantly, he would have a greater number of civil bills.

2097. In any respectable court the seneschals are very desirous of having attorneys?—Yes; at the manor court at Castlebar attorneys constantly attend. I have never been in the court, but I have seen attorneys; but there are a great number living in the town of Castlebar.

2098. They are the same class of attorneys as practise at the quarter sessions probably?—Yes.

2099. Mr. Redington.] Do not you think it would give more satisfaction to the people if a legal man were seneschal, than a person not conversant with law?—I think any respectable country gentleman would be as good a seneschal as any legal man.

2100. May not questions arise where seneschals are required to have a knowledge of the law?—There may.

2101. Perhaps as much knowledge of law may be required in some cases by seneschals, as is required by the assistant barrister?—Yes.

2102. Still

2102. Still you think that a country gentleman would be equal to the duty?—Yes; for the cases generally arise out of dealings between the country people, on which country gentlemen can decide as well as a lawyer.

2103. *Chairman.*] Do you think that the emoluments of such courts as that of Mr. Seymour, and the Castlebar court and Westport, are sufficient to induce respectable persons to undertake the office?—I should think not.

2104. Do you think Mr. Seymour is accurate in stating that his seneschalship is worth only 100*l.* a year?—I should think it is not worth more than that.

2105. Have you considered any suggestions that might be made for improving those courts with which you are acquainted?—I should think that it would be a very good principle to have a jury of odd numbers, and take the verdict of the majority; for in the event of one dissenting, the whole thing has to be gone over again at a great expense to the poor people; I would make it a regular court of arbitration.

2106. If the number of the jury were diminished would that be beneficial?—I think if the number were diminished it would be easier to get a better class of persons.

2107. Do the assistant harristers at the quarter sessions ever summon what is called an arbitration jury of three persons?—Very often; they often allow each party to name one, and then name a third themselves.

2108. Have you found that attended with a good effect?—The harrister always acts upon the award or verdict of those persons. The judge of assize has done so. I am on the special panel of the county, and I have been often called as a juror on appeals; the judge often calls for the record panel and gets a jury empannelled.

2109. A full jury?—Yes.

2110. Is there any other suggestion you would wish to make?—No; I am not aware of any other.

Sabbati, 2^a die Junii, 1838.

MEMBERS PRESENT.

Mr. Bridgeman.
Mr. Jephson.
Mr. Litton.

Captain Meynell.
Mr. M. J. O'Connell.

MORGAN JOHN O'CONNELL, ESQ. IN THE CHAIR.

Mr. James Barry, called in; and further Examined.

2111. *Mr. Litton.*] WHAT length of summons do you give?—Three clear days' service before the holding of each court, and the summons is dated seven days.

2112. There must be a service of three clear days?—Yes.

2113. Must it be a personal service?—No, at the house, on any person above the age of 16 years.

2114. The same as in the assistant harrister's court?—Yes.

2115. What is the description of place at which those courts are held?—Always at the petty-session houses in each manor, with the exception of the manor of Rahill, which has no petty sessions house.

2116. Where is it held in Rahill?—At the house of a tenant of Lord Glengall's, a respectable farmer; it is a large house.

2117. Where is the court held?—In a room in that house; he accommodates the seneschal, by the directions of the Earl of Glengall, with that room.

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2118. Is

*Mr.
E. P. Maddenell
31 May 1838.*

*Mr. James Barry.
3 June 1838.*

Mr. James Barry.

2 June 1838.

2118. Is there a room for the jury to retire to?—There are two rooms for them to retire to.

2119. Are they in the habit of retiring?—No, the cases in general are not of that nature to require it. In case of any dispute the court would be cleared, and they would make up their decision. They have, in some instances, had the court cleared to let them make up their decision.

2120. Sometimes they do retire to that other room, and sometimes the court is cleared, and they are left alone?—Generally the court is cleared, and they are left to themselves.

2121. Does the seneschal go out in that case?—He generally remains, but he never interferes with them; he takes their verdict. If they go into the room the seneschal never accompanies them into the room.

2122. Does the seneschal retire when they remain in the room?—He has done so, but he does not generally.

2123. With respect to the practitioners; who are the practitioners in that court in general?—They are generally attorneys.

2124. Regular attorneys?—Yes, the attorneys who practice generally at the quarter sessions, who take out their licence.

2125. Do you know any instance of others than attorneys practising?—Yes, on some occasions a barrister has come to conduct a case; that has not been very often.

2126. Are there any practitioners beneath the rank of attorneys?—Never. I would never allow that, nor in fact has it ever been attempted.

2127. What is an attorney allowed for soliciting a defence or decree?—That rests entirely with the persons who employ him; there is no regular fee allowed to be taxed by the seneschal for the attendance of the attorney.

2128. Has the seneschal no power of taxing the costs?—No.

2129. There is no scale of costs in the court?—None for the attendance of professional persons, only what the seneschal himself is entitled to.

2130. The defeated litigant has no costs to pay for professional persons?—He has nothing to pay but the 4 s. 6 d., that is the entire costs of the court.

2131. If a plaintiff is defeated, what has he to pay?—If a plaintiff is defeated the cost of the defence is 5 s. 11 d. Irish; I generally put it down at 5 s. now.

2132. Is the 4 s. 6 d. which the defendant has to pay English or Irish?—English.

2133. *Chairman.* You have the power of charging the sum of 5 s. 6 d. for each, have you not?—Yes.

2134. Can you explain the reason why you have put a larger sum upon the dismiss than upon the decree?—The costs of the decree were formerly 7 s. 6 d., making up the entire costs. When the stamp duty was in being it was very heavy; from the number of cases tried before me, which were so very small, I thought it better to reduce the entire costs, making it but 4 s. 6 d.

2135. Why did you not reduce the costs on the dismiss to the same amount?—I reduced them to 5 s. 11 d., or 5 s. 6 d. English.

2136. Do you mean to say that formerly you allowed 7 s. 6 d. to be taxed against the defendant in case of a decree?—Yes, that included the stamp duty.

2137. How long has that stamp duty been repealed?—Some years now.

2138. When was that imposed?—I am not prepared to say.

2139. You are certain that you fixed the sum at 7 s. 6 d. against the defendant in case of a decree?—Yes, including the stamp duty. I think the stamp duty was 1 s. on each summons, and 2 s. on the decree, that made it up to 7 s. 6 d.

2140. The charge for the summons, however, would appear to exist as much in the case of the dismiss as the decree?—Yes.

2141. That would make a difference of 2 s. between the costs of a decree and a dismiss?—Yes.

2142. How came it that you reduced the costs of the decree so largely in amount, namely, from 7 s. 6 d. to 4 s. 6 d., or nearly one-half, whereas you reduced the costs of a dismiss only from 5 s. 6 d. to 5 s., or one-eleventh?—There was no process in case of a dismiss.

2143. Now that the stamp duty has ceased to exist, you are entitled by the Act to charge the same costs for a decree or a dismiss?—I am.

2144. You charge, in point of fact, a greater sum for a dismiss than for a decree?—

decree?—Yes, 6*d.* more. I am entitled to more than 4*s.* 6*d.* expenses upon a decree, but I do not charge it.

2145. Why do you not show the same indulgence to a party in the case of a dismiss which you do in the case of a decree?—It was optional with myself. I did not wish to impose upon the parties who got decrees. The persons who obtain the decrees are generally very poor people; they spoke to me themselves, begging me to do so.

2146. Have they never done so in case of a dismiss?—Never.

2147. Those who are dismissed and lose their claim do not make so much objection as those who gain their claim?—They never have made any objection.

2148. Are there many dismisses in your court?—Not many.

2149. What is the proportion to the decrees?—Perhaps one out of ten.

2150. Mr. *Litten*.] What are your fees in those cases?—The full amount is 4*s.* 6*d.*; that includes the service and the summoning the jury.

2151. Do you get all that?—I am obliged to pay out of it for the summoning the jury and the service of the process.

2152. The attorneys get no costs at all?—I have no schedule pointing out any fee due to them.

2153. Have you any salary at all?—No.

2154. Out of your fees you pay what you have mentioned?—Yes.

2155. *Chairman*.] You pay for the summoning of the jury?—Yes, I give the person who serves the summons something from myself.

2156. Part of your costs is for the summoning of the jury?—It is.

2157. But there is no item for the service of process directly recoverable under the Manor Court Act?—No, but the man gets it; 6*d.* for the serving each process.

2158. The man who serves the process has no right to recover anything for it from the party?—No, and I do not charge it.

2159. You always summon your juries?—Yes, and they attend regularly; I summon them in respect of every case for each manor, generally giving them 48 hours' notice.

2160. Mr. *Litten*.] How much do you pay for serving each process?—I pay 6*d.* for every process, both in town and country; there are regular persons appointed in each manor, the same as the assistant harrister has for the service, and that man is made accountable to me in case of any neglect; Cahir manor is much more extensive than the rest, and there are four appointed for service of processes for Cahir, and two for Castlebrace, a man and his son; I appointed the father, and he has given security for good conduct, and one for Rehill besides.

2161. *Chairman*.] Are those men bailiffs for the execution of decrees, as well as being process servers?—Yes, they are.

2162. Do you allow them a salary besides their fees?—No regular salary; I give them, according as I think they conduct themselves, a gratuity, but no regular salary.

2163. They have a poundage on all sums sold under your decree?—They have.

2164. Mr. *Litten*.] By whom are your decrees executed?—By the bailiffs, and under the hand and seal and warrant of the seneschal; and no person is allowed to execute his decrees but the bailiffs of each manor.

2165. Does the security extend to the due execution of the decrees?—It does; I have security for the one as well as for the other: I have not got security for one of the manors, but the bailiff is a very respectable man; the clergyman of the parish, the Rev. Mr. Calmer, wrote to me as a friend of his, and therefore I do not require security; he has conducted himself remarkably well since his appointment, no complaint has been made against him.

2166. How many years has he been appointed?—I dare say it is five or six years.

2167. Does the bailiff go against both goods and person?—No; against the goods, not against the person.

2168. You do not consider that you have jurisdiction to take the person?—No.

2169. *Chairman*.] Do you allow no other persons to serve your processes except your bailiffs?—I make it a rule not, but in case of a great hurry they generally run the business till the last day; then they come and ask the bailiff; I never

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I never allow any person to serve, but by permission of the seneschal; then, under those circumstances, I allow a third person, but not the parties.

2170. That is a matter in which the law leaves you a discretion if you think fit?—It gives him the power as seneschal of the manor.

2171. Does the law allow any person to execute your decrees except your bailiff?—The plaintiff may execute it, both at quarter sessions and in the manor courts, but it is at his peril.

2172. Do you ever allow the plaintiff, or a special bailiff appointed by him, to execute the warrant?—No; I always have the decrees regularly drawn and put in the name of the bailiff before I sign it, in case of any unpleasant circumstances occurring; I have the person under security, and can look to him.

2173. Do you ever allow a special bailiff, other than the regular officer of the court appointed, to execute decrees?—Yes, if a plaintiff makes a special application to me, I should do it; the manor extends very far; perhaps they may have a bailiff living at New Inn, which is four miles; the bailiff might like a person nearer than Cahir to watch the defendant's goods; then I should put in a special bailiff for him.

2174. Does the manor of Cahir extend equally in every direction from the town?—It does not.

2175. In which direction does it extend farthest?—Towards Clonmel.

2176. On which side is Clonmel?—It is east of Cahir.

2177. Which way is Castlegrace?—South-west, towards Clogheen.

2178. Does that include the mountains towards Tipperary?—No; it is a trifling distance from the town, not more than a mile; then it goes out to New Inn, towards Cahel; then it takes in an immense district of country.

2179. The town is not at all central?—It is not; but there is no more convenient place of holding the courts; no court-house could be more convenient, unless I were to travel about. The people at Clonmel generally go to the quarter sessions there.

2180. The whole part of this manor is not the estate of Lord Glengall?—No.

2181. Does he retain any head-rent over a large portion of it?—He does. It is all in the possession of Lord Glengall, with the exception of a very trifling part.

2182. Is there any part of it leased for ever on fee-farm grants?—No, there is not.

2183. Mr. Litton.] Are not a great majority of the cases under 40s.?—A vast majority are under 40s., varying from 10s. upwards.

2184. You say that the seneschal, in cases under 40s., has the power of examining the plaintiff?—Yes; the 7th & 8th of Geo. 4, cap. 55, and sec. 2, gives that power to the seneschal.

2185. Has the assistant barrister of the county any such power?—No.

2186. Can he give a decree, no matter how trifling the case may be, to any person going to the quarter sessions, if he has not a witness?—No.

2187. With respect to the three manors of which you have spoken, would the distance from the inhabitants of those courts render the quarter sessions requisite as a substitute for the manor court?—Not at all.

2188. How far is the remotest inhabitant within the jurisdiction of the manor from any of those manor courts?—The remotest inhabitant from the manor court of Cahir is the workhouse at Clonmel; that is eight miles; but the remotest who come to the court come from three miles to four miles.

2189. The remotest of those that could by possibility come is eight miles?—Yes; but they never come from Clonmel.

2190. Chairman.] Does your jurisdiction in that part of your manor clash at all with the borough court of the town of Clonmel?—They never come to the court.

2191. Are the limits well defined between the jurisdiction of the corporation of Clonmel and the jurisdiction of the manor court?—They never clash. A branch of it runs to the workhouse at Clonmel; a very trifling portion of it is so situate.

2192. If they were to come to the manor court, is there a doubt as to the bounds of your jurisdiction?—None at all.

2193. Do the corporation of Clonmel exercise jurisdiction over the same place?—It is a very small portion; it is quite independent of the corporation of

of Clonmel; it has never occurred in any single case that they have clashed in any of the courts.

2194. *Mr. Litton.* With respect to those three manors, you say, a vast majority of inhabitants who bring those suits live within four miles?—Yes, some within a mile and some within the town; but they are all within a circle of four miles, most of them considerably less.

2195. Are the great majority of them within a circle of three miles?—Yes.

2196. What is the nearest point of the quarter sessions?—The nearest is at Clonmel.

2197. How far is that from Cahir?—Nine miles. There is a quarter sessions held at Clogheen; that is only once a year.

2198. That has been since the Act?—Yes.

2199. There is another at Carrick?—Yes; that is 20 miles.

2200. What distance is Cashel?—Nine miles; Tipperary 13.

2201. Those are Irish miles?—Yes, they are. The division of Carrick-on-Suir, each of the manor courts is held in the district, for the people have to go to Carrick-on-Suir on the 19th of June, which is the sessions. They are all from that part of the country, Carrick-on-Suir, Clonmel, and Tipperary. They can go only once a year to Carrick; and they will have to bring every case, no matter how trifling it may be, and a witness with them. That will be 20 miles, Irish, going, and the same returning.

2202. New quarter sessions have been given to different counties, and those in the southern division of the county of Tipperary have been altered?—No.

2203. Formerly you had two sessions at Clonmel and two at Cashel?—Yes.

2204. Since that, the three new sessions towns of Carrick, Kilkmaule, and Tipperary have been added; how are the sessions held in those towns?—Once a year in each of those places.

2205. Are they still held as they were before at Clonmel and Cashel?—No, they are not held so often.

2206. Take the January sessions; where are they held?—They have divided that division of the county into the northern and southern division.

2207. The question refers to the southern division, in which the sessions towns were Cashel and Clonmel; are the sessions held as they were before the division?—I cannot say precisely, but I think not; I am almost certain not.

2208. Is there any one of the four sessions which is held in your division, except at Carrick-on-Suir?—There is the Clonmel, that is held there; they go from Carrick-on-Suir to Cashel.

2209. The inhabitants of that part of the country are not bound to go the long distance to Carrick-on-Suir?—They must.

2210. Why must they?—It is so settled.

2211. When you had a sessions town within eight or nine miles of the town of Cahir, you were cut off from the division to which that session town belougs, and were sent to a place 20 miles off?—Yes, or to wait till the next sessions at Clonmel; if you did not go to the Clogheen, which is gone by, you must wait for Clonmel.

2212. The old southern division of the county is cut into two?—Yes; the one takes Carrick, Clonmel, and Cahir; the other Tipperary, Cashel, Thurles, and Kilkmaule.

2213. Are there other parts of the county of Tipperary, to the westward of Cahir, at which that inconvenience is as strong, if not stronger?—Yes, equally as much.

2214. Do persons generally wait for three months, till the sessions comes round, or do they ever go to Carrick?—A great number of them go to Carrick.

2215. It is in the power of the plaintiff to take his process to whichever town he pleases?—Yes, according to the division.

2216. A vexatious plaintiff may take a person to the court at Carrick instead of waiting till the sessions are held at the nearest place, or he may even pass over the time when the court is held at the nearer place, and take him to a greater distance?—It is quite in his discretion where he will go, and in many instances vexatious plaintiffs have done so. The additional towns for the quarter sessions are merely held for the purpose of recovery of debts, and the hearing of ejectments; the criminal business of the quarter sessions is left as it was, to be done at Clonmel and Cashel.

2217. So that what may be called the extreme southern division of Tipperary

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is cut off from the middle southern, for civil purposes; the Clonmel quarter sessions are always adjourned to Cashel from those places?—Yes.

2218. When the sessions are held, either at Carrick or Killmaule, for civil business, the criminal business of the old division of the county is adjourned from either of those towns to Cashel?—Yes; the informations from the magistrates of the county are returned by order of the assistant barrister to the old towns, either Clonmel or Cashel; I think there is some part of the barony attached to Cashel quarter sessions, and the remainder attached to Carrick-on-Suir and Clonmel.

2219. On the whole, though there is inconvenience in regard to the particular sessions of Carrick-on-Suir, as it is arranged to have one sessions so near as Killmaule and two as near as Clonmel, is it not better that you should have that inconvenience once a year, than be left to an undivided district?—Yes; it is an arrangement which has given satisfaction to all parties generally.

2220. Mr. Littow.] The costs on a decree at quarter sessions are 7 s. 6 d., are they not?—They are.

2221. That includes witnesses and everything?—Yes.

2222. For the recovery of a debt of 40 s. or under, 7 s. 6 d. is all they could get?—Yes; and they are at the expense of bringing witnesses to Carrick, no matter whether the person is vexatious or not, a person must bring a witness for the recovery of 20 s. or 30 s., 30 miles, going and returning, and keeping him all the day, which makes a great majority of the people of the manor remain at the manor, and do their business at home.

2223. How often are your courts held in each manor?—I generally hold them once a month or five weeks, except in the very busy season; the patent gives the power of holding them every three weeks.

2224. Are the periods of holding the sessions arbitrary, or having named days annually in different years, do you hold them periodically on those days?—Generally, immediately after the holding of each court, we regulate the time of the next court to be held, on which there are notices posted through the manor, apprising the people of the day on which the court will be held.

2225. Do you attend the quarter sessions professionally?—No; unless there are ejectments that I have anything to do with.

2226. Are you Lord Glengall's law-agent?—I am.

2227. Do you attend the quarter sessions occasionally for his Lordship?—My brother does the business there, unless there is any particular case.

2228. Do you happen to know whether the greater number of cases at quarter sessions are under 40 s.?—Yes, they are; ever since the 20th jurisdiction many of them are for 15 s. and 20 s., and so up to 30 s. and 35 s.; but I am pretty positive that the greater number of cases are under 40 s.

2229. Chairman.] Do you practise as a solicitor generally in the district in which you hold your courts?—I do.

2230. Not in the barrister courts?—No.

2231. Are the class of persons who practise in the assistant barristers' courts in your county, generally respectable?—They are.

2232. You have been some time in the profession?—I have.

2233. Have you found that the better regulation of the assistant barristers' courts within the last 10 or 12 years has tended to increase the respectability of the practitioners in it?—Most decidedly.

2234. Do you remember the period when it was, in many instances, a very disorderly and ill-conducted court?—I have known it to be so, but not in my county.

2235. Do you remember the time when regular process servers were not employed?—Yes.

2236. A great deal of abuse prevailed in that court?—Yes.

2237. A great deal of what is mildly termed hard swearing?—Yes; I did practise at the quarter sessions myself till I got into other business.

2238. Do you conceive that the extending the jurisdiction of the court by the Act passed two years ago, has yet produced no additional effect upon the respectability of the court?—None.

2239. Are there any other manor courts in that county with which you are acquainted?—Yes, one at Clogheen.

2240. Is it that which is called in the return the manor of Everard's Castle?—Yes.

2241. Who

2241. Who is the lord of that manor?—Lord Lismore.

2242. The seneschal of that court returns himself as not being in the legal profession?—He is not.

2243. Is he agent or under-agent to Lord Lismore?—Neither; the agent was the seneschal formerly, but in consequence of having a vast deal of business to attend to, he was obliged to give it up, and the present seneschal, Mr. O'Brien, was appointed. Mr. Taylor, who is the agent of Lord Lismore, was agent for some years.

2244. That is a court of which the pecuniary jurisdiction is as extensive as yours?—Yes; but not so extensive in point of district.

2245. It does not appear from the return to be a court in which so much business is done as in yours?—It is not.

2246. Are you aware whether the institution of quarter sessions in Killmaule has diminished the business more since the return was made?—Indeed I do not think it has; I mentioned before that the quarter sessions is held only once a year there, that court the barrister could not hold oftener; from the number of places he has to go to he is constantly on the move.

2247. With regard to the appeals from your decrees, it appears that in the course of three years 15 were lodged, of which eight were tried and three reversed?—I believe those are the numbers.

2248. It would appear from that, that the practice of appealing for vexatious purposes is not so great in your district as in some others?—They scarcely ever appeal.

2249. When they do appeal, it would appear that it is for *bona fide* purposes, from so many coming to trial?—Yes.

2250. Do you recollect the particulars of the three decrees which were reversed?—I do not; I recollect the cause of the reversal of one; it was some time ago.

2251. You require them to give surety on lodging an appeal, according to the Act of Parliament?—I do.

2252. Are you particular that that surety shall be solvent?—Indeed I am very particular; I invariably make them qualify.

2253. By swearing themselves worth the amount?—Yes, and the penalty in every case I possibly can I take in security; I know every person in the manor as to his solvency, having lived so long among them.

2254. Do you find any difficulty in keeping good order in your court?—None.

2255. Have you your bailiff always in attendance?—Always; and the police came and attended also; but there is an order issued by the inspector general that they are not to attend manor courts. Where I held the manor courts latterly was in what is called the police barracks; the under part was for a court-house, and the upper part for the police; but I believe, either by the Act of Parliament or some private regulation of the inspector general, that is deemed irregular, and within the last three months that has been removed, and the petty sessions have been separated from the police barracks.

2256. Have you ever found any resistance in the execution of your decrees?—There has been, in some cases, where persons would allege they had a previous seizure, either for rent (it is what they call a "cover" in the country), then the moment the bailiffs were obstructed they would be summoned, but they would never follow that up when they saw a determination; there has been a case where the rescue was followed up to punish the men, where they struck the bailiff; I had the informations returned to the quarter sessions, and had them punished for it; there is a little jealousy on the part of the assistant barrister whenever the manor courts come into question; they would in every case put them down as much as possible if they had the power; however, the assistant barrister of our county is quite satisfied; it is a very large county; but I never knew a case where a case from a manor court came before an assistant barrister that he did not set his face as much against it as possible; and in general the professional men, practising at quarter sessions, are very much averse to the manor courts, for they think that they interfere with them. An occurrence happened at Roscrea, where the seneschal's decree was put in force: a desperate affray ensued, for which there were bills found at the quarter sessions, when the barrister called the seneschal's patent, which he had no authority whatever for doing, and the seneschal not producing it, he told the jury to acquit the pri-

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soners, that the prisoners were quite justified in committing the rescue. The barrister has no power whatever over manor courts, nor has he any power of calling for the patent, inasmuch as there is no appeal from the manor court to the quarter sessions; the only person entitled to call for the patent is the judge of assize before whom the appeal is tried; but in that instance the barrister called upon the seneschal, and he not producing it, he told the jury to acquit the prisoner, which they did; that I had from the seneschal himself.

2257. You conceive, in general, the leaning of the assistant barristers to be against the seneschals?—Always.

2258. Have you ever heard of a proposition of giving an appeal from the seneschal's decree to the assistant barrister?—I never have; there is not a doubt that the decree would be reversed in every instance; the case would not hold one second, I am sure, right or wrong, without going into the case; if that were done, it would be a very great injury to the country as long as such courts are held; that must remain as it is to the judge of assize.

2259. Is there any further restriction on appeals in your manor, except in the requiring a solvent surety?—In the appellant binding himself in the amount of double costs, and two sureties in the amount of the debt; each in fact is doubled.

2260. The fee to the seneschal on appeal is 1 s., is it not?—Yes; they generally give something for filling up the appeal to the registrar or clerk; it is optional with them whether to give that or not.

2261. There is no other sum charged on the lodging the appeal, except that fee to the registrar?—No; they used in some instances to order the costs of the decree to be lodged, but that has been done away with; it was found troublesome, and there was no object in it.

2262. Was it found to be illegal?—It was always returned; if the party did not prosecute the decree the plaintiff got the costs of the decree.

2263. Are there not some manor courts very remote from the assize towns?—I do not know any except Roscrea.

2264. There is no other in your county?—No.

2265. Was it not sometimes found to be a hardship for a party at Roscrea to have to go for his just debt, in case of an appeal, all the way to the assizes in Clonmel?—It was equally a hardship as to the quarter sessions; they were in Nenagh, further from Clonmel.

2266. The facility of appeal is not so great in the assistant barrister's court as in the manor court?—I think it is.

2267. You do not consider the affidavit of the attorney as likely to be a check on vexatious appeals?—No.

2268. It has been suggested that vexatious appeals would be checked by requiring the attorney, or some third person, to make an affidavit that the plaintiff had just cause of appeal?—I think that is quite immaterial.

2269. You have not found a tendency to vexatious appeals in your manor?—No; the best criterion I can give of that is by the very small number of appeals during the number of years I have been seneschal; lately there have been hardly any at all. There is a circumstance I wish to mention. By a section of the 7 & 8 Geo. 4, there is a power to the seneschal and the jury to take security for any small debts, to be paid by the week. I have had no occasion in the world to take that security, for in every case in which I have recommended a party to give the time, they have invariably done so; but there is a power given, by the 7 & 8 Geo. 4, to the seneschal and the jury, to give time for the payment, with a security, by weekly instalments.

2270. What should you conceive to be the average emoluments of your office?—There are a great number of summonses issued and served, but never proceeded upon, for the people will do anything in the world to prevent having their names brought into the manor court; they have a credit, and like to keep up that credit; but I suppose it is considerably less now than it was when the tithes cases were generally tried at the manor courts; it varies a good deal; perhaps 200*l.* a year, or a little more.

2271. On entering the case for trial, if it be not actually tried, what fee is charged?—A shilling only; if the case is settled there is only a shilling.

2272. That is, a shilling additional to the shilling for the summons?—Yes.

2273. And in case of a decree there is 2*s.* 6*d.* further?—Yes, the costs are altogether 4*s.* 6*d.* at the manor courts, and 7*s.* 6*d.* at the quarter sessions.

2274. That

2274. That 4s. 6d. is subject to deductions?—Yes, I have to pay the bailiffs for making the summonses. Mr. James Barry

2275. If the summons is merely served and the case not brought to trial, how much is the bailiff paid in that case?—Invariably 6d. 2 June 1838.

2276. Your clear profit on that is only 6d. in the event of the case not being brought to trial?—Yes; the shopkeepers in the town are the people who apply to the court or the bailiff on the spot to serve the summonses, and consequently the expense is so very trifling, they arrange the thing before going to trial, that is the reason of a great number of summonses being given out to the people, they conceive that it brings the money in; if the process is for 30s. and they get 15s., they will give the people time for the remainder; it is a cheap mode of getting in their debts, it frightens the people into a settlement.

2277. You consider that in the town of Cahiv the jurisdiction of the manor court could not be abolished without considerable injury to the shopkeepers and traders?—A very considerable injury; it may be natural that I should say so as seneschal, but I am sure that the shopkeepers would give the same evidence.

2278. Was your predecessor in office an attorney?—He was not.

2279. Was he a legal person?—He understood the law very well.

2280. Was he a magistrate?—He was not; he was not long in; but the person before him was a solicitor who had retired, and then had the commission of the peace, Mr. Burke.

2281. The court appears to have been for a considerable time kept in respectable hands?—Yes, for many years.

2282. Where the lords of the manor has taken care to ensure that, have you not found that the people respect the court, and are pleased with the advantages which its cheap jurisdiction affords them?—Yes, and they pay the greatest respect not alone to the court but even to the seneschal. In one or two instances after my appointment, I was obliged to command persons for abusive language, not to the seneschal, but between parties in court; they gave to one another the lie, and I committed them for 48 hours for contempt of court, and that was the only instance of my committing any one.

2283. Your court is constituted a court of record by the charter?—Yes.

2284. And you consider that the power of committing for contempt is incident to that court?—Yes, and I would not sit in that court unless I had the power of keeping order.

2285. Are you acquainted with any cases of courts in which unfortunately the lords of manors have not attended to their duty in providing respectable officers to preside over the courts, and ensuring the power and respectability of the court?—I am not. I know the manor of Mitchelstown, which is a very respectable one; it has been held by a magistrate, the brother of the land agent of Lord Kington, Mr. Montgomery, a very respectable gentleman, and Mr. Smith, of Roscrea, is equally so.

2286. As you have not been aware yourself of the existence of any courts in which abuses in that respect had existed, you have never turned your attention probably to the correction of such abuses?—No, I have not.

2287. You have never considered any qualification to be required of the seneschals which should provide a remedy for those evils?—No.

2288. The lords of the manors are, as far as the seneschal is concerned, perfectly irresponsible?—Perfectly so.

2289. The practitioners' powers in the court have been very much increased by the Acts of Parliament which have been passed at different times?—Very much.

2290. Do you not think it advisable that where their powers have been increased the responsibility should also be increased?—Decidedly.

2291. Should you object to an obligation being imposed on the lords of manors in respect of the fitness of the individual, or a requirement that their appointment should be made subject to the approval of Government, or any central authority?—At the time the 7 & 8 Geo. 4 was passed, the seneschals were required to give security before the assistant harrister; that has been done.

2292. You state that the costs of a decree at the quarter sessions are greater by 3s. than the costs of a decree in your courts?—Yes, in addition to the expense of bringing witnesses.

Mr. James Barry.

2 June 1838.

2293. Does that sum of 7*s.* 6*d.* include the attorney's fee?—It does.

2294. The attorney's fee is not included in your manor court costs?—It is not.

2295. What fee is generally paid to the attorney who practises in the manor court?—It is various; some give them 5*s.*, some less, according to the solvency of the party.

2296. The Act of Geo. 3 allows a fee of 2*s.* to the attorney attending, does it not?—I am not certain.

2297. It does not allow any fee to be recovered against the other party?—No.

2298. Which the Quarter Sessions Act does allow?—Yes.

APPENDIX.

LIST OF APPENDIX.

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Appendix, No. 1.

Appendix, No. 1

A RETURN of the Number of MANOR COURTS now existing in the several Counties in Ireland, specifying the Places over which the Jurisdiction of each Court extends, and the greatest Distance of any Place within the Jurisdiction from the ordinary Place or Places of holding such Court; also a Return of the Dates of Patents or Charters granted to such Courts; also a Return pointing out the Extent of the Pecuniary Jurisdiction, how it is enforced, and what Description of Cases are Tried; also a Return pointing out the Extent of their Power with regard to Imprisonment, the Number of Persons Imprisoned under their Decree, also to state whether the Prison be one of Peculiar Jurisdiction; also a Return, stating whether Power of Distress exists, and how it is Levied; also a Return of the Number of Courts held in each Year, beginning from the 31st day of December 1833, the Number of Courts Adjourned for Non-attendance of Jurors or other Cause, the Number of Cases entered for Trial, the Number of Cases Tried, the Number of Appeals from Decrees, stating how many were Tried, and how many Decrees were Reversed; also a Return of Fees Charged, the Sums Recovered, and the Amount of Costs during the same Period; a Return of such Courts the Seneschal or Stewards of which are Members of any and what Legal Profession, or Justices of the Peace.

COUNTY OF ARMAGH.

ARMAGH.

MANOR OF CLANTILLO.

Manor of Clantillo.

THE jurisdiction of this court extends over the said manor, excepting two townlands, which the Earl of Charlemont has incorporated with the manor of Moy; but whether he had a right to do so or not I never inquired, neither did the present lord of said manor.

The court holds in the townland of Breagh, and the greatest distance from the place of sitting to the utmost extent of the manor, is not, in my opinion, more than five English miles.

The charter under which said court is held was granted September 1st, in the 5th year of the reign of Charles I., being 1630 in the Christian era.

The pecuniary jurisdiction of said court is anything under two pounds sterling.

There are no decrees issued for the body out of said court, and of course no particular prison.

Power of distress does exist, and is levied by seizing the person's goods against whom issued, and selling same after regular notice, if not otherwise satisfied.

The number of courts held each year are twelve, which are held on the first Wednesday of each month.

The first court-horon that I held in said manor was on the 5th of November 1834, and therefore can only state from that time or date.

Since my appointment there were no courts adjourned in consequence of the non-attendance of jurors, as we can have a jury without any other summons than a mere verbal notice; that, in my opinion, might sit on life and death: the only adjournments were two, both caused by my absence.

Appendix, No. 1.

ARMAGH.

Mayor of Chancery.

The number of cases tried are as follows:—

5 November 1834, there were three cases tried, the first for 10 s.; the second for 11 s. 4 d.; and the third for 10 s. In the first and second decrees were granted, and the third was dismissed.

3 December, there was three cases entered, one of which was tried, and a decree granted. 7 January 1835, there were four cases entered, three of which were tried. The first for 5 s.; the second for 17 s. 0 d.; and the third for 8 s. The fourth postponed for want of evidence; the others were decreed.

4 February 1835, the case that was postponed on the last court-day was tried on this; it was for the sum of 4 s., and dismissed.

1 April, there were four cases entered, the first for 1 l.; the second for 5 s.; the third for 1 l. 10 s. 10 d.; the fourth for 10 s. 11 d.; all decreed.

6 May, there were five cases entered, and four tried; the first for 1 l. 10 s. 10 d.; the second for 3 s.; the third for 1 s. 8 d.; the fourth for 8 s. 6½ d.; all decreed.

1 July, there was one case entered and tried; it was brought for 5 s. 3 d., and was dismissed.

5 August, there were two cases entered and tried; the first for 13 s. 2 d.; the second for 3 s. 8 d.; decrees obtained in both cases.

7 October, there were five cases entered and tried; the first for the sum of 1 l. 10 s. 11 d.; the second for 7 s.; the third for 2 l.; the fourth for 1 l. 14 s. 4 d.; the fifth for 1 l. 7 s.; all decreed.

4 November, there were three cases entered and tried; the first for 1 l. 18 s.; the second for 3 s. 0 d.; the third for 1 s. 3 d.; all decreed.

3 December, there were two cases entered and tried; the first for the sum of 11 s.; the second for 6 s. 4½ d.; both decreed.

3 February 1836, there were four cases entered, three of which were tried; the first for the sum of 8 s. 4 d.; the second for 10 s. 6 d.; the third for 10 s. 6 d.; all decreed.

2 March, there were sixteen cases entered and tried; the first for the sum of 17 s. 0 d.; the second for 1 l. 16 s. 9 d.; the third for 1 l. 10 s.; the fourth for 1 l. 12 s.; the fifth for 1 l. 15 s.; the sixth for 10 s.; the seventh for 1 l. 16 s.; the eighth for 10 s.; the ninth for 7 s.; the tenth for 3 s. 6½ d.; the eleventh for 1 l. 15 s. 11 d.; the twelfth for 3 s. 6 d.; the thirteenth for 1 l. 16 s.; the fourteenth for 1 l. 4 s. 11 d.; the fifteenth for 1 l. 17 s. 0 d.; the sixteenth for 1 l. 15 s. 2 d.; on this day there were six decrees and ten dismissals.

6 May, there was but one case entered and tried; it was for the sum of 1 l. 16 s. 11 d., and was dismissed.

6 July, there were two cases entered, but were agreed afterwards without coming to trial.

3 August, there were two cases entered and tried; the first for 1 l. 4 s. 10 d.; the second for 15 s. 4½ d.; decrees were obtained in both.

6 October, there were two cases entered, but were agreed afterwards without coming to trial.

7 December, there were two cases entered and tried; the first for the sum of 1 l. 10 s. 8½ d.; the second for 10 s.; both decreed.

11 January 1837, there were two cases entered and one tried; it was for 1 l. 18 s.; and a decree was granted.

1 February, there were nine cases entered, and eight of them tried; the first for the sum of 1 l.; the second for 1 l. 2 s.; the third for 10 s. 7 d.; the fourth for 1 l. 3 s. 2 d.; the fifth for 1 l. 10 s. 2 d.; the sixth for 2 l.; the seventh for 13 s. 7 d.; the eighth for 1 l. 1 s.; all decreed.

This includes the whole transactions of the court since my appointment. On the 1st of March last there were no processes out, and on the 1st of April I was obliged to attend the quarter sessions at Armagh. With respect to appeals there were only three cases appealed since my appointment, one of which was proceeded on.

The persons that did appeal are prone to bickering, and, in my opinion, appealed to gain time, or to excuse their defence.

As to the fees charged, I have leave to refer to the manor court Act, Gen. 3, c. 25, s. 7, which I never go beyond, but frequently return my fees to induce the parties to agree.

I cannot exactly state the amount of costs, as I frequently return my part of it, particularly if the sum sued for be very small, or the parties very poor; I frequently return the costs, but do not keep an account of such returns.

I do not properly understand what is meant by being members of any legal profession; whether persons professing in any of the law departments, or persons following professions authorized by, or which the law does not prohibit. But I hope that no person following any illegal profession would get the appointment of senechal.

I follow the profession of a civil engineer, and am agent on part of the manor.

I cannot state the number of decrees that I signed, but according to the best of my opinion or knowledge they do not exceed ten, and one dismissal.

Cranagile.

James Whiteside.

COUNTY OF CLARE.

MANORS OF KILRUSH AND MOYARTA.

Appendix, No. 4.

CLARE.

Manors of Kilrush
and Moyarta.

RETURN of the Number of Manor Courts held in the Manors of Kilrush and Moyarta, specifying the Places over which the Jurisdiction of each Court extends, and the greatest Distance of any Place within such Jurisdiction from the ordinary Place or Places of holding such Court?

The number of manor courts held by me are, viz.—There are five manor courts held in each month, viz.—at Kilrush, Doonbeg, Dooagh, Donoughboy, and Toirneaghtane; the jurisdiction of said courts extends over the above-mentioned townlands, with their subdivisions. The greatest distance of any place within my jurisdiction from the ordinary places of holding such court is ten miles.

Return of the Date of Patent granted to the Manor Courts of Kilrush and Moyarta?

The patent granted for the manor courts of Kilrush and Moyarta is 10 James 1.

Return pointing out the extent of their pecuniary jurisdiction?

The extent of the pecuniary jurisdiction in my courts is 10 *l.* sterling, late Irish currency, if by note, but in all other actions the jurisdiction extends only to 5 *l.*

How is it enforced?—By distress and sale of goods and chattels.

What description of Cases are Tried?

The description of cases tried are of various descriptions, viz.—Promissory notes, goods sold and delivered, wages, and actions for work and labour.

Return pointing out the extent of their Power with regard to Imprisonment?

There is no power of imprisonment vested in the seneschal of the above manors.

The Number of Persons Imprisoned under their Decree?—None.

Return stating whether Power of Distress exists, and how it is levied?

A power of distress exists against the goods of the defendant; when a decree is issued it must be executed before the next court-day, and if not executed within that time, must be renewed at the next sitting of the court, on the bailiff of the court making affidavit that he searched for distress and failed in obtaining it.

Return of the Number of Courts held in each Year, beginning from 31 December 1833?

From 31 December 1833 to 31 December 1834; in all there has been 60.

From 31 December 1834 to 31 December 1835; in all there has been 66.

From 31 December 1835 to 31 December 1836; in all there has been 60.

From 31 December 1836 to 9 May 1837; in all there has been 26.

The Number of Courts adjourned for Non-attendance of Jurors, or other cause?

I never had an occasion to adjourn a court for non-attendance of jurors, and there has been but very few adjournments for other causes.

The Number of Cases entered for Trial from 31 December 1833?

From 31 December 1833 to 31 December 1834; in all there has been 900 cases entered for trial.

From 31 December 1834 to 31 December 1835; in all there has been 1,347 cases entered for trial.

From 31 December 1835 to 31 December 1836; in all there has been 1,375 cases entered for trial.

From 31 December 1836 to 9 May 1837; in all there has been 714 cases entered for trial.

The Number of Cases Tried from 31 December 1833?

From 31 December 1833 to 31 December 1834, the number of cases tried amount in all to 943.

From 31 December 1834 to 31 December 1835, the number of cases tried amount in all to 1,304.

From 31 December 1835 to 31 December 1836, the number of cases tried amount in all to 1,254.

From 31 December 1836 to 9 May 1837, the number of cases tried amount in all to 702.

How

Appendix, No. 1.

CLARK.

Manors of Kilsnah
and Moyaria.

The Number of Appeals from Decrees, stating how many were Tried, and how many Decrees were Reversed?

From 31 December 1833 to 31 December 1834, the number of appeals lodged were 11; out of which four were tried, none reversed.

From 31 December 1834 to 31 December 1835, the number of appeals lodged were 25, out of which 17 were tried, and two reversed.

From 31 December 1835 to 31 December 1836, the number of appeals lodged were 14, out of which two were tried, none reversed.

From 31 December 1836 to 9 May 1837, the number of appeals lodged were four, out of which one was tried, and confirmed.

Return of Fees Charged?

For each process	-	-	-	-	-	£.	1	-
For each entry	-	-	-	-	-	-	1	-
For each decree made out and signed	-	-	-	-	-	-	2	6
For each appeal and bond	-	-	-	-	-	-	1	1
For every renewal	-	-	-	-	-	-	2	6

Return of Sums recovered, and the Amount of Costs during the same period?

1834.—Sums recovered	-	-	-	-	-	£.	675	11	2
Costs	-	-	-	-	-	-	107	10	-
1835.—Sums recovered	-	-	-	-	-	-	1,169	-	-
Costs	-	-	-	-	-	-	137	6	8
1836.—Sums recovered	-	-	-	-	-	-	1,300	-	10
Costs	-	-	-	-	-	-	164	-	-
1837.—Sums recovered	-	-	-	-	-	-	640	17	6
Costs	-	-	-	-	-	-	72	14	6

CORK.

Manors of
Aughadown and
Crookhaven.

COUNTY OF CORK.

MANORS OF AUGHADOWN AND CROOKHAVEN.

1. THE manors of Aughadown and Crookhaven have jurisdiction over Skengh, Glawn, Meurane, Ardmanah, Cooredarigon, Ballyvoing East, Ballyvoing West, Corinnacoss, Dough, Lether, Crookhaven, East Calves Island, West Calves Island, Castle Island, Skull, Kilsokane, Doonera, Aughaleagh, Kilcoe, Aughadown, Kilkelloe, Ardough, Marsh North, Marsh South, Callstrom, Dromnacarragh, Ardaly, Rossnagooose, Drishoen, Manlevours, Inishbig, Lusher, Bangore, Maunin Island. The greatest distance of any of these from the manor court-house is 29 miles.

2. The date of the patent or charter can be furnished by the Ecclesiastical Commissioners for Ireland, or the Lord Bishop of Cork and Ross.

3. This court is not limited as to its pecuniary jurisdiction, except as other courts in like circumstances; its decrees are enforced by its own bailiff by distress and sale of defendants' goods; it tries all manner of actions of debt, trespass, trover, detinue, assumpsit, &c.

4. This court has no prison, and grants no decree against the person.

5. This court distrains and sells defendants' goods by its own bailiff, on its own decree.

6. Twenty-six courts were held in 1834.

Twenty-four courts - ditto - 1835.

Fourteen ditto to the 18th of July 1836.

Seneschal Sick.

Nine ditto from the 4th of September 1837 to the 1st of January 1838.

No court adjourned for non-attendance of jurors or other causes; 898 cases entered for trial.

218 cases tried. One appeal from a decree, and that one reversed without prejudice.

7. Fees charged during the same period - - - - - £. 110 - -

Sums recovered during the same period - - - - - 430 - -

Costs thereon - - - - - 110 - -

8. The seneschal of these manors is neither a member of any legal profession, nor a justice of the peace.

Skull, 21 January 1838.

Thomas English, Seneschal.

COUNTY OF CORK.

MANOR OF MITCHELSTOWN.

Appendix, No. 1.

Cork.
Manor of
Mitchelstown.

1. Names of Townlands and Places over which the Jurisdiction of the Court extends?	2. The greatest Distance of each Place within such Jurisdiction from Mitchelstown, where the Manor Court is held?	3. Names of Townlands and Places over which the Jurisdiction of the Court extends?	4. The greatest Distance of each Place within such Jurisdiction from Mitchelstown, where the Manor Court is held?
Manor of Mitchelstown, County of Cork.	Late Irish Measurements.	Manor of Mitchelstown, County of Cork—contd.	Late Irish Measurements.
	Mils. Quarters.		Mils. Quarters.
Mitchelstown.		Puckaskilla - - -	3 2
Loughagown - - -	- 2	Ardglare - - -	3 -
Glounbough - - -	- 2	Knocknamuck - - -	2 2
Stag Park - - -	- 2	Kildrum - - -	2 -
Deer Park - - -	- 2	Kilbanna - - -	1 -
Ballykerney - - -	1 -	Carraigcanna - - -	1 2
Coerrigantleigh - - -	1 2	Gortcannahowl - - -	3 2
Flemingstown - - -	2 2	Funow - - -	4 -
Ballybough - - -	4 -	Cserigane - - -	3 -
Glanshulla - - -	4 -	Coolnegase - - -	2 -
Glounglough - - -	4 -	Garryleigh - - -	1 2
Cloughlin - - -	3 -	Coolenane - - -	1 -
Bawasemirish - - -	7 -	Bollinwillin - - -	- 2
Seart - - -	5 -	Gurrahe - - -	- 2
Kildormay - - -	6 -		
Old Castletown - - -	5 -	County of Limerick:	
Glaventa - - -	7 -	Brackbawn - - -	5 -
Springvale - - -	6 -	Knockmone - - -	4 2
Quit-rent Mountain - - -	9 -	Belmestona - - -	4 -
Gortnacurrag - - -	8 -	Loughannas - - -	4 -
Ballynaultig - - -	7 2	Mossaderry - - -	5 -
Grange - - -	7 -	Carrigera - - -	5 2
Cullinagh - - -	6 -	Mossabrack - - -	8 -
Ballysuredane - - -	6 -	Belbriagh - - -	3 2
Bawnabon - - -	5 2	Coolestin - - -	4 2
Kilcloony - - -	7 -	Bober - - -	4 -
Knockanerin - - -	6 -	Shrove - - -	4 2
Marshallstown - - -	5 -	Knockrouse - - -	4 -
Carraigcanna - - -	4 -	Clyntin - - -	3 2
Sraheragh - - -	5 2	Cooleruce - - -	4 -
Tooragh - - -	5 -	Kilbenny - - -	3 2
Lahamaloge - - -	6 -	Garryrorough - - -	3 -
Derryfabon - - -	5 -	Cashue - - -	3 -
Gartree - - -	4 -	Lyroe - - -	5 -
Kileroe - - -	3 -	Gernb - - -	2 2
Bouledorough - - -	3 -	Glencarnnac - - -	2 2
Kulenchag - - -	2 2	Kilglass - - -	2 -
Gorteenave - - -	3 -	Thomhillawn - - -	1 2
Gorteenashina - - -	2 2	Coolmanahogue - - -	2 -
Bauhilly - - -	2 2	Lisnashiff - - -	3 -
Ballynether - - -	1 2	Ballybrion - - -	3 2
Clyroe - - -	2 -	Ballyduff - - -	4 -
Mitchelstown Demesse.		Carraghtark - - -	5 -
Brigown, Mitchelstown, built on the townland.		Cullane - - -	5 -
Ballinamona - - -	1 -	Moneyvannagh - - -	5 -
Glenculikey - - -	1 -	Curraheen - - -	4 2
Killicane - - -	1 2	Gurtaderka - - -	4 -
Drowningough - - -	1 2	Toorelegan - - -	4 2
Poldarstown - - -	2 -	Ballyfaskin - - -	5 -
Skeheen - - -	3 -	Ballyhamman - - -	5 -
Bollinamuck - - -	3 -	Spride - - -	6 -
Kilcunagh - - -	3 2	Ballysudea - - -	6 -
Curraghroe - - -	4 -	Kilcen - - -	7 -
Glansiff - - -	5 -	Knockanoolimen - - -	6 2
Curraghmore - - -	5 -	Ballyfrutamore - - -	7 -
Ballygibbin - - -	4 -	Ballypocian - - -	16 -

Appendix, No. 1.

Conn.
Manor of
Mitchelstown.

3.—Date of patent?

The patent is dated the 28th day of October, in the 13th year of the reign of King Charles the First.

4.—Extent of pecuniary jurisdiction?—Forty shillings English.

5.—How enforced?

By summons or process, decree, and execution against the goods.

6.—What description of cases tried?

Of debt, covenant, trespass, assumpsit, quantum meruit, contract, trover, detainer.

7.—Extent of power with regard to imprisonment?—Not any.

8.—Number of persons imprisoned under decrees?—None.

9.—Whether the prison be one of peculiar jurisdiction?

No prison. There is a manor pound, for the safe custody of all property taken in execution under manor court decrees and dismisses.

10.—Whether power of distress exists, and how it is levied?

By seizure and sale of the goods.

11.—Number of courts held in each year, beginning from the 31st day of December 1833?

Cannot be answered, as, in consequence of the illness of the Earl of Kingston, the lord of the manor, courts were not held in this manor for some years prior to August 1837, to the great inconvenience of the inhabitants; to remedy which, the present seneschal was appointed, under an order of the Court of Chancery in Ireland, and held his first court on the 8th day of August last, since which, up to the present time, ten manor courts have been held.

12.—Number of courts adjourned for non-attendance of jurors or other causes?

Two adjournments, in consequence of the inclemency of the weather; but it would be well if the seneschal had a like power to fine jurors for non-attendance as in the case of non-attendance of witnesses, which would enable him to enforce the attendance of a more respectable class of jurors.

13.—Number of cases entered for trial?

Ninety-two cases entered from 7th August 1837 to 13th March 1838 inclusive. The number of processes served for each manor court have varied from 40 to 80, many of which settled before the court day.

14.—Number of cases tried?

Seventy-three cases tried from 7th August 1837 to 13th March 1838 inclusive.

15.—Number of decrees signed by the seneschal?

Sixty-six decrees signed from 7th August 1837 to 13th March 1838 inclusive.

16.—Number of dismissals signed by the seneschal?

Six dismissals signed from 7th August 1837 to 13th March 1838 inclusive.

17.—Number of appeals from decrees?

Ten appeals from 7th August 1837 to 13th March 1838. There is too great a facility afforded for the lodging of appeals, which, in 19 out of 20 cases, are merely lodged to gain time and annoy the plaintiff. The defendant lodging the appeal should be obliged to pay the plaintiff's costs, and make affidavit as to merits, and in all respects to conform to the rules observed on lodging appeals in the barrister's court.

18.—Number of appeals tried?—None.

19.—How many decrees were reversed?—None.

20.—Return of fees charged?

	s.	d.
For signing and issuing summons or process, and copy	1	—
Entering the cause in court-book	1	—
Hearing the cause, recording the verdict, and preparing and signing decree	2	6
Renewal of decree	—	6
Taking appeal, and preparing and seeing bond executed	1	—
Baileff, for summoning a jury	1	—

21.—The sums recovered, exclusive of costs?

£. 60. s. 8. from 7th August 1837 to 13th March 1838 inclusive.

22.—Amount of costs during the same period?

This is answered in Nos. 14 and 15, as the costs in all cases entered and tried were charged; but, as stated before, a great number of summonses or processes were issued and served but not entered, the parties having settled, of which no account has been kept.

23.—Whether the seneschal is of any and what legal profession, or justice of the peace?

The seneschal of this manor is a solicitor of the Court of Chancery, and an attorney of the three law courts, of 19 years' standing.

J. W. Sherlock, Seneschal.

COUNTY OF KERRY.

Appendix, No. 1.

KERRY.

MANOR OF LEIXNAW.

Manor of Leixnaw

By Letters Patent dated the 6th day of July, in the 10th year of the reign of his late Majesty King James the First, said manor, castle, town, village and lands of Leixnaw, with the appurtenances, situate in the County of Kerry, were granted unto Thomas Fitzmaurice, Baron of Leixnaw, his heirs and assigns for ever, with full power to hold, within the said manor, courts baron and courts leet, as in said letters patent mentioned.

The following are the names of the places over which the jurisdiction of said Court extends, as mentioned in the constitution of said manor court, viz.: Myanua, Ballynagarra, Balhatogh, Knockane, Incurrahine, Erribegga, Ballacrahine, Liselane, Conygeaze, Tonereogh, Farrennyseare, Kikluony, Ballenvelen, Ballenawbourty, Ballendohar, Diravren, Ballendernady, Terrensloghagh, Kilvaldy, Gortleag, Mellanower, Tyrensountaraly, Garvullachan, Clounswale, Inchic, Moanaviloca, Farrenvelly, Monasteady, Kippahrao, Farrennywoneckory, Gortygrave, Toanawfurnan, Ivesseigan, the two Aghibeggs, Clounyva, Farrenragherie, Mullarose, Dromerore, Mockenagh, Kilfrighany, Badybeinagh, and Gortendoghara, with their and each of their appurtenances in said county of Kerry; and said lands of Gortleag is the most remote of said several lands, the same being distant about five or six miles from Leixnaw aforesaid, where said manor court is uniformly held.

The peculiar jurisdiction of said court by said letters patent is, to hold pleas on Mondays, from three weeks to three weeks, of whatever debt, contract, trespass, account, detinue, case, contract, and other matters whatsoever, which in debt or damages exceed not the sum of 40s. lawful money of England, happening, arising, done or perpetrated within the said manor, or in or within any other towns, villages, hamlets, lands, tenements or hereditaments, which from thenceforth were to be given, aliened or granted by the said Thomas Fitzmaurice, Baron of Leixnaw, his heirs or assigns, as of his said manor of Leixnaw; and to hear, determine and execute in said court, all and singular, such and the like actions, causes and matters, and all and singular other matters whatsoever, which in any court baron in the kingdom of Ireland, or within the kingdom of England, ought or might be heard, determined and executed.

The cases tried in said court before the seneschal and jury are, viz.: actions in debt, assumpsit, and insinol computassunt, quantum meruit, trover, trespass, and detinue, for sums not exceeding 40s., upon examination of witnesses duly sworn, and sometimes the parties themselves or one of them; and the decrees and dismissals of the court are always granted against the goods for the sum decreed, together with 5s. 6d. costs, and the amount thereof levied by sale of the goods taken thereunder, upon four days' previous notice thereof, given in writing, as in other cases of civil bills.

It seems this manor court has not the power of imprisonment, neither does the seneschal exercise any such power.

The number of courts held in this manor yearly since 31st of December, 1833, were, viz.: in the year 1834, nine; in the year 1835, seven; in the year 1836, eleven; and from thence to the 25th day of December 1837, six courts.

These courts were not held regularly on every court-day, for want of business to be done; two adjournments thereof took place in the year 1834, three in 1835, three in 1836, and one in 1837, in consequence of the seneschal's absence on professional business in Dublin and elsewhere; besides which, that no court was held from 10th April 1837 to 23d October 1837, partly because of the seneschal's absence on professional business, and that he was unwilling to hold court in consequence of the death of the late lord of the manor, under whom he held his appointment, until his reappointment by his successor. No adjournment of said court took place for want of jurors.

The number of cases entered for trial during said period were 196, of which 18 were agreed and 102 were tried, 84 of which were decreed and 18 dismissed; appeals were lodged to six of said decrees, of which only one was tried and the decree affirmed with costs; no decree of this court has been reversed on the trial of any appeal since the seneschal's appointment in March 1835.

The following are the fees charged for the business done in said court during said period:

	s.	d.
To the seneschal for issuing and signing the summons or process - - - - -	1	-
To same on entering the plaint - - - - -	1	-
To the manor court bailiff for summoning a jury - - - - -	1	-
To the seneschal for every execution made and signed - - - - -	2	6
To same on entering defendant's appearance - - - - -	1	-
To same on signing and issuing compulsory summons - - - - -	0	0
To same on taking appeal bond - - - - -	1	-
To same on signing and issuing every renewal - - - - -	0	0

The cost of each decree and dismiss is 5s. 6d., and the manor court bailiff's fees for executing and levying the same is 8d. for the first and 3d. for every pound after.

Appendix, No. 1.

KERRY.

Manor of Leixnaw.

The following is a list of the sums or debts recovered under the decrees of said court during said period, exclusive of costs of decrees and dismisses:

£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.
—	5	—	1	10	—	—	2	8	1	10	—
—	15	—	1	14	6	—	9	8	—	9	6
1	1	9	1	—	—	—	10	—	—	7	0
—	16	—	1	15	6	—	1	4 ½	1	8	—
—	18	4 ½	1	8	6	1	12	6	1	—	6
—	18	8	1	10	—	1	12	8	3	—	—
—	10	6	—	11	6	1	7	0	2	—	—
2	—	—	—	1	—	—	10	—	—	8	—
—	17	— ½	1	13	— ½	—	3	10	1	0	—
1	10	—	—	3	2	—	7	6	1	15	—
1	7	0	—	17	4	2	—	—	—	18	0
1	11	—	—	14	4	—	10	—	—	5	3
—	12	5	1	8	—	—	15	7	—	5	—
1	—	—	1	10	—	—	7	—	—	7	6
—	16	8	1	17	—	—	8	11	—	11	6
1	7	—	1	—	—	—	10	—	—	—	—
									60		
									1		
									9 ½		

The cost of said proceedings in said court during said period, including the bailiffs' fees summoning juries, amounted to 57 *l.* 11*s.* 6*d.*, besides a sum of 22 *l.* 3*s.*, the costs of 443 processes issued and not entered.

Richard Fitzgerald, the senechal of said court, is a practising attorney of the Courts of King's Bench, Common Pleas and Exchequer, and a solicitor of the Court of Chancery in Ireland, and also proctor of the Court of Admiralty.

Listowel, 23d January 1838.

Richard Fitzgerald, Senechal.

MANOR OF LISTOWEL.

Manor of Listowel.

By letters patent, dated the 6th day of July, in the 16th year of the reign of his late Majesty King James the First, said manor, castle, town, village, and lands of Listowel, with the appurtenances, situate in the county of Kerry, were granted unto Thomas Fitzmaurice, baron of Leixnaw, his heirs and assigns for ever, with full power to hold, within said manor, courts baron and courts leet, as in said letters patent mentioned.

The following are the names of the places over which the jurisdiction of said manor court extends, as mentioned in the constat of said manor court, viz.: Illanigawnyffe, Illane, M'Longberie, Ballibowlogh, Colieveragh, Aghitrougbs, Gorticurrin, Gorticunassue, Dromeltra, Inchy, M'Gullycrough et Illaneveckane, with all and singular the rights, members and appurtenances situate in said county of Kerry; and said lands of Dromeltra are the most remote of said several lands, the same being distant about four miles from Listowel aforesaid, where said manor court is uniformly held.

The pecuniary jurisdiction of said court, by said letters patent, is to hold pleas on Tuesdays, from three weeks to three weeks, of whatever debt, contract, trespass, account, detinue, case, contract and other matters whatsoever, which in debt or damages exceed not the sum of 40*s.* lawful money of England, happening, arising, done or perpetrated within said manor, or in or within any other towns, villages, hamlets, lands, tenements or hereditaments, which from thenceforth were to be given, aliened or granted by the said Thomas Fitzmaurice, baron of Leixnaw, his heirs or assigns, as of his said manor of Listowel; and to hear, determine and execute in said court, all and singular such and the like actions, causes and matters whatsoever, which in any court baron in the kingdom of Ireland, or within the kingdoms of England, ought or might be heard, determined and executed.

The cases tried in said court before the senechal and jury are, viz.: actions in debt, assumpsit, and inland comptment, quantum meruit, trover, trespass, and detinue, for sums not exceeding 40*s.*, upon examination of witnesses duly sworn, and sometimes the parties themselves, or one of them; and the decrees and dismisses of said court are always granted against the goods for the sum decreed, together with 5*s.* 8*d.* costs, and the amount thereof levied by the bailiff of said court, by sale of the goods taken thereunder, upon four days' previous notice in writing, as in other cases of civil bills.

It seems this manor court has not the power of imprisonment, neither does the senechal exercise any such power.

The number of courts held in said manor yearly, since 31st December 1833, including a court held on that day, to 20th December 1837, were, viz.: in 1834, 14; in 1835, 11; in 1836, 10; and in 1837, eight courts.

The court was not held regularly every three weeks for want of business to be done; two adjournments thereof took place in the year 1834; three in 1835; three in 1836; and two in 1837, in consequence of the senechal's absence on professional business in Dublin and elsewhere; besides which, that no court was held from 21st of March 1837 to 27th of August 1837, partly because also of the senechal's absence on professional business, and that he was unwilling to hold court in consequence of the death of the late lord of the manor, under whom the senechal held his appointment, until his re-appointment by his successor. No adjournment of said court took place for want of jurors.

The

The number of cases entered for trial in said court during said period, were 154; of which 30 were agreed, 90 decreed, and 34 dismissed. Appeals were lodged to two of said decrees, which decrees were tried and confirmed with costs. No decree of this court, since the seneschal's appointment in March 1829, has been reversed on the trial of any appeal therefrom.

Appendix, No. 1.

KERRY.

Mayor of Listowel.

The following are the fees charged for the business done in said court during said period:

	s.	d.
To the seneschal for issuing and signing the summons or process	-	1 -
To same on entering the plaint	-	1 -
To the mayor court bailiff for summoning a jury	-	1 -
To the seneschal for every execution made and signed	-	2 6
To same on entering defendant's appearance	-	1 -
To same on signing and issuing of compulsory summons	-	6 -
To same on taking appeal bond	-	1 -
To same on signing and issuing every renewal	-	6 -

The following are the sums or debts recovered under the decrees of said court during the entire of said period, exclusive of costs of decrees and dismissals:

£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.	£.	s.	d.
-	6	0	-	10	-	1	10	2	-	10	-	-	0	6
1	2	8	1	-	-	-	7	2	-	6	2	-	0	4
-	4	8	-	14	-	1	3	-	1	10	-	1	0	-
-	10	-	-	3	10½	1	-	2	-	18	10	-	0	6
-	11	-	1	3	7	1	1	-	-	11	-	-	8	10½
1	6	-	-	4	-	-	17	-	1	-	-	-	14	8
-	6	4	-	4	2½	1	14	-	-	5	2	1	4	-
1	-	-	1	1	6	-	11	8	-	2	6	-	1	-
1	-	-	-	6	5	1	10	2	-	14	6	-	15	-
-	14	6	-	10	6	-	14	8	-	10	8	1	10	-
1	11	6	-	6	-	1	3	6	-	1	4½	-	5	-
-	5	-	-	10	7	1	10	-	-	8	6	-	13	8
-	16	4½	-	11	2	-	12	2	-	10	-	1	6	-
-	15	-	-	3	10	1	2	8	-	15	-	-	13	-
-	9	2	-	6	6	-	15	6	2	-	-	-	-	-
1	9	4	-	10	10½	-	2	5	1	18	7½	£	63	10 2½
1	8	2	-	4	6	1	-	-	-	12	2	-	-	-
-	5	2	-	8	-	-	-	-	-	-	-	-	-	-

The costs of the proceedings in said court during said period, including the bailiff's fees summoning juries, amounted to 48*l.* 3*s.*; besides a sum of 22*l.* 19*s.*, the costs of 409 processes issued and not entered.

Richard Fitzgerald, the seneschal of said court, is a practising attorney of the Courts of King's Bench, Common Pleas, and Exchequer, and a solicitor of the Court of Chancery in Ireland, and also proctor of the Court of Admiralty.

Listowel,
January 23, 1838.

Rich. Fitzgerald, Seneschal.

KING'S COUNTY.

MANOR OF PARSONSTOWN AND NEWTOWN.

PLACES over which Jurisdiction of Manor extends, and greatest Distance from Place of holding Court?

Annastenge,* otherwise Annastenge; Aughnessillagh; Blir, or Parsonstown; Ballier darragh; Ballyshout,* otherwise Ballyshoule; Baelancale, otherwise Coppansale; Ballinac otherwise Ballinry; Bealla,* Bealla na ferrye*; Ballyduffe, 12 miles; Cloneagh*; Crinkill; Clonkelly, otherwise Clonkella; Clonlaghe, otherwise Clonlagh, otherwise Clonlagh, otherwise Clondagh; Clonaghill, otherwise Clonaghe; Clonhrose; Drumburn; Derrinduff; Killinfadda,* alias Killinfedin; Kiskeran, 12 miles; Loughill*; Loghera*; Lisnabracke, alias Lisnabrack; Mahernowliat*; Newton, seven miles; Scorragh; Sheepfield*; Siffin, alias Sefin; Tomagha*; Tycoragha. All the foregoing denominations are in the barony of Ballyhenry and King's county.

Arigogy, six miles; Ballindown; Ballywilliam; Ballykelly, five miles; Ballyuca*; Bol-linarge; Ballinabogg*; Ballinabough*; Carrig Edmond; Carrig Donnell; Cargeens, alias Carrigeens; Cosloga, alias Kologe; Derrinlough, six miles; Doorus, six miles; Drynagh, eight miles; Derryfadda, alias Derryfadda, seven miles; Galrush; Port*; Shanvally*; Sullagh*; Tallenackagh. All the latter denominations are in the barony of English and King's county.

[Note.—The denominations marked thus (*) cannot now be made out; their names are not used or known.]

King's County.

Manors of
Parsonstown and
Newtown.

Appendix, No. 1.

KING'S COUNTY.

Manors of
Parsonstown and
Newtown.

Date of Charters or Patents?

10 James 1; 26 June 1630, or 26 July 1630. 12 Charles 1, 14 April.

Extent of pecuniary jurisdiction, and how enforced?

Not exceeding 40*s.*, late Irish currency; enforced by distringas, and decree against goods.

Description of Cases tried?

Debt, transgressions, contracts, detinue, covenant, trespass, computasset, may be tried, but the cases generally tried are simple contracts, accounts stated and settled.

Number of Courts held in each Year?

Seven in 1834; six in 1835; seven in 1836; six in 1837.

Courts adjourned, and for what Causes?

Two adjourned in 1834, happening to fall in with the time of holding the quarter sessions, which, as well as the manor court, are held in the court-house, Parsonstown.

Five not held for want of jurors, though regularly summoned.

Two again adjourned in 1834, the quarter sessions interfering, as before.

Six not held for want of jurors, though summoned, as before.

Three adjourned in 1835, the quarter sessions interfering.

Five dropped for want of a jury, though summoned.

Two adjourned in 1837, quarter sessions interfering.

Six dropped for want of jurors.

Cases entered for Trial, and Cases tried?

In 1834, 65 cases entered; 36 tried.

In 1835, 52 cases entered; 40 tried.

In 1836, 97 cases entered; 75 tried.

In 1837, 82 cases entered; 46 tried.

Number of Appeals from Decrees, and how many tried?

There have not been more than four appeals for the four years, viz., 1834, 1835, 1836 and 1837. One decree was reversed, as it ought to have been done, though the respondent did not attend at the assizes to support his decree; the appeals in two others were not proceeded on, and the fourth remains for the next assizes.

Fees charged?

	s.	d.
For a distringas - - - - -	1	-
For bail to a distringas - - - - -	1	-
For a summons, and copy - - - - -	1	-
To bailiff serving distringas or summons - - - - -	1	-
Entering cause for hearing - - - - -	1	-
To bailiff summoning jury - - - - -	1	-
For decree or dismes made out and signed by seneschal - - - - -	2	6
For each renewal of decree or dismes - - - - -	-	6
For the bond and bail on appeal - - - - -	1	-

Sums recovered?

	£.	s.	d.
In 1834 - - - - -	32	13	1
— 1835 - - - - -	20	15	4
— 1836 - - - - -	50	-	-
— 1837 - - - - -	40	4	5

The foregoing sums exclusive of costs.

Amount of Costs received in the years as below?

	£.	s.	d.
In 1834 - - - - -	9	16	-
— 1835 - - - - -	8	11	-
— 1836 - - - - -	12	14	-
— 1837 - - - - -	10	18	-

It is to be observed that the costs in the years above stated were from processes, or summonses, or distringas, issued and served, on which settlements took place without further proceedings. The average issue of processes or distringas for each year about 120, and also from the entries and decrees, or dismissals.

Of what Profession is Seneschal?

A solicitor in Chancery; also an attorney of the courts of Queen's Bench, Common Pleas, and Exchequer, in Ireland.

The patent does not extend to imprisonment of the person for debt.

It is very difficult to obtain the attendance of jurors; though there are 24 jurors summoned for each court day, there are seldom more than six or seven of those so summoned in attendance.

attendance, the remainder are supplied from persons in the neighbourhood of the court-house, or in the court at the time; sometimes only five or six jurors can be made out, and on some such occasions the suitors consent to have their cases tried by these five or six jurors: when such consent cannot be obtained, the court is adjourned or drops altogether. It would be of great advantage if there was the same mode of levying fines for non-attendance of jurors, as in the courts of quarter sessions.

Though the jurisdiction of the Parsonstown manor as to the amount is very limited, yet still it is of great advantage in numberless instances.

On several occasions persons' goods, not residing within the manor, have been attached, and debts in consequence paid, which never otherwise would have been paid. This may appear to be a harsh proceeding, but still it appears justifiable in cases of small demands (as they must always be in this manor) and poor suitors.

Gen. Mitchell, Seneschal.

Appendix, No. 1.

KERO'S COUNTY.

Manors of
Parsonstown and
Newtown.

COUNTY OF TIPPERARY.

MANOR OF ROSCREA.

TIPPERARY.

Manor of Roscrea.

Places over which the Jurisdiction of each Court extends, and the greatest Distance of any Place within such Jurisdiction from the ordinary Place or Places of holding such Court?

The seneschal of the manor of Roscrea begs leave to refer to an answer already given by him in the month of March last.

Date of Patents or Charters granted to such Courts?

Twenty-third October, 29 Hen. 8.

Extent of their Pecuniary Jurisdiction?

Ten pounds of late Irish currency.

How it is enforced?

By distress and sale of the goods by the special bailiff of the manor, who enters into security with two sufficient sureties in the sum of 50 £ for the faithful discharge of his office.—*Vide 25 Geo. 3.*

What Description of Cases are tried?

All cases of debt, assumpsit and instrumental comptances, not exceeding the sum of 10 £; and in all cases of quantum meruit, trover, trespass or detinue, not exceeding the sum of 5 £, and within the sum to which the jurisdiction of minor courts is limited by the grant or charter under which said courts are held.—*Vide 25 Geo. 3.*

The Extent of their Power with regard to Imprisonment?—None whatever.

The Number of Persons imprisoned under their Decree?—None.

Whether the Prison be one of peculiar jurisdiction?

There is no prison of peculiar, or any jurisdiction, belonging to the manor of Roscrea.

Whether Power of Distress exists, and how it is levied?

It does as far as 2 £ of late Irish currency, which is never levied. If the party distrained disputes the debt he enters into a bond, with two sureties, to have the goods forthcoming at the next court-day, when the case is tried like any other civil bill.

Number of Courts held in each Year, commencing from the 31st Day of December 1833?—Twelve; one in every month.

The Number of Courts adjourned for Non-attendance of Jurors, or other Cause?

None for non-attendance of jurors. Five for cholera and indisposition.

The Number of Cases entered for Trial?

In 1834, 250 cases were entered for trial.

In 1835, 221 cases.

In 1836, 308 cases.

The Number of Cases tried?

In 1834, 216 cases were tried.

In 1835, 191 cases.

In 1836, 194 cases.

The Number of Appeals from Decrees, stating how many were tried, and how many Decrees were reversed?

Five in the three preceding years.

None were tried; of course none could have been reversed. Delay seemed to have been the entire object, as the appellants settled previous to the assizes.

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Appendix, No. 1.

TIPPERARY.

Munster of Roscrea.

A Return of Fees charged?

The fees regulated by statute.—*Vide* 25 Geo. 3, c. 3.

Fee to seneschal for issuing summons	-	-	£.	-	1	1
To same for entering plaint	-	-	-	-	1	1
For every execution made out and signed	-	-	-	2	0	1
For every renewal	-	-	-	-	0	1
Bond on appeal	-	-	-	-	1	1
Bailiff or marshal for summoning a jury	-	-	-	-	1	1
For every dismiss	-	-	-	-	5	11

All of late Irish currency.

Sums recovered?

In 1834, the sums recovered amounted to	-	£.	394	2	11
In 1835, to	-	-	303	3	5
In 1836, to	-	-	407	0	4

Amount of Costs during the same period?

In 1834, the costs on decrees, dismisses, distresses, renewals, amounted to	-	£.	52	10	9
In 1835, to	-	-	49	18	11
In 1836, to	-	-	54	10	1

It would amount to considerably more, but the parties settle, and do not take out decrees or dismisses.

Courts, the Seneschal or Stewards of which are Members of any, and what, Legal Profession, or Justices of the Peace?

A solicitor of the Court of Exchequer, of 25 years' standing.

John Smith, Seneschal.

TYRONE.

COUNTY OF TYRONE.

Munster of Augher.

MANOR OF AUGHER.

PLACE of Jurisdiction?—Manor of Augher.

Greatest Distance?—Three miles from town of Augher, where court is held.

Date of Patent?—About the year 1614.

Extent of pecuniary jurisdiction?—Two pounds.

How enforced?—By process.

Description of Cases?—Debts under 2 *l.*, or contracts.

Extent of Power?—No power of imprisonment.

Number of Persons imprisoned?—None.

Whether Power of Distress exists, and how levied?

It does; levied by seneschal's warrant.

Number of Courts held in each year?

Court days are every third Monday, if there is any business to be done.

Number of Cases entered for trial?

One hundred and eighty-seven in the space of last three years.

Number of Cases tried?—One hundred and one in the space of last three years.

Number of Appeals?—Five; none reversed.

Amount of Fees charged?—Five shillings and sixpence.

Number of Decrees?—Eighty-seven.

Number of Dismisses?—Fourteen.

Number of Courts adjourned?—About eight in last three years.

Seneschal no member of legal profession, nor justice of peace.

John Caldwell, Seneschal.

Appendix No. 2.

Appendix, No. 2.

A RETURN of the Number of DECREES and DISMISSES signed by the Seneschals or Stewards of the several Manor Courts in Ireland.

COUNTY OF CORK.

CORK.

MANOR OF CLOYNE.

Manor of Cloyne.

Decrees - - - - 50. | Dismisses - - - - 0.

It is to be observed that no account whatever is here taken of those cases, although they form a vast majority of those coming before the seneschal, in which the parties come to an amicable arrangement after the issuing of the process, and before the sitting of the court.

W. Welland, Seneschal.

COUNTY OF FERMANAGH.

FERMANAGH.

MANOR OF BROOKBOROUGH.

Manor of Brookborough.

From 27 November 1825	-	-	2 dismisses	-	-	0 decrees
1 January 1827	-	-	1	-	-	8
1 — 1828	-	-	0	-	-	8
1 — 1829	-	-	0	-	-	12
1 — 1830	-	-	1	-	-	24
1 — 1831	-	-	1	-	-	18
1 — 1832	-	-	0	-	-	13
1 — 1833	-	-	3	-	-	0
1 — 1834	-	-	0	-	-	14
1 — 1835	-	-	1	-	-	4
1 — 1836	-	-	0	-	-	15
1 — 1837	-	-	0	-	-	5

TOTAL - - - 9 dismisses - - 130 decrees.

John Edward Taylor, Seneschal.

COUNTY OF ROSCOMMON.

ROSCOMMON.

MANOR OF FRENCHPARK.

Manor of Frenchpark.

1834	-	-	32 decrees	-	-	4 dismisses
1835	-	-	28	-	-	6
1836	-	-	63	-	-	11
1837 (April)	-	-	35	-	-	5

Frederick Cary, Seneschal.

COUNTY OF TIPPERARY.

TIPPERARY.

MANOR OF CAHER, REHILL, AND CASTLEGRACE.

Manors of Caher, Rehill, and Castlegrace.

Manor of Caher	-	-	561 decrees	-	-	60 dismisses
Manor of Rehill	-	-	258	-	-	13
Manor of Castlegrace	-	-	81	-	-	9

Caher, 19 May 1837.

James Barry, Seneschal.

MANOR OF ROSCREA.

Manor of Roscrea.

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John Smith, Seneschal.

Appendix, No. 3.

Appendix, No. 3.
Quarter Sessions,
Ireland.

PAPERS delivered in by Mr. George Mathew, and referred to in his Evidence of 27 March 1838.

(1.)—RETURN of QUARTER SESSIONS in every County in Ireland.

ANTRIM:—At Ballymoney, twice a year; Carrickfergus, twice; Belfast, thrice; Ballymena, twice; and Antrim, twice.

ARMAGH:—At Armagh, four times a year; Markethill, four times; Lurgan, twice; Ballybot, twice; and Newtownhamilton, once.

CARLOW:—At Carlow, twice; Tullow, twice; and Bagnalstown, once.

CAYN:—At Cootehill, twice; Ballyconnel, twice; Cavan, four times; and Belleboro', twice.

DONEGAL:—At Donegal, thrice a year; Glenties, twice; Letterkeenny, twice; Benbulbin, once; and Lifford, once.

DOWN:—At Downpatrick, twice; Newry, twice; Newtownards, twice; and Hillsboro', twice.

GALWAY:—At Eyrecoast, once; Ballinasloe, twice; Galway, four times; Oughterard, twice; Clifden, twice; Tuam, twice; Loughrea, twice; and Gort, once.

KERRY:—At Killarney, four times; Cahirciveen, twice; Tralee, four times; Diogle, twice; Listowel, four times; and Kenmare, twice.

KILDARE:—At Kildare, twice; Naas, twice; Athy, twice; and Maynooth, twice.

KILKENNY:—At Kilkenny, four times; Urlingford, twice; Thomastown, four times; Callan, twice; Piltown, twice; and Castlecomer, once.

KING'S:—At Philipstown, four times; Tullamore, four times; and Birr, four times.

LEITRIM:—At Manorbhamilton, four times; and Carrick-on-Shannon, four times.

LIMERICK:—At Newcastle, twice; Rathkenle, four times; Limerick, three times; and Bruff, twice.

LONDONDERRY:—At Londonderry, twice; Coleraine, twice; Newtown Limerick, twice; and Magherafelt, twice.

LONGFORD:—At Longford, four times; and Grannard, twice.

LOUTH:—At Drogheda, four times; Ardee, twice; and Dundalk, four times.

MAYO:—At Ballisrobe, four times; Ballina, four times; Castlebar, four times; and Belmullet, once.

MEATH:—At Kells, twice; Dunshaughlin, twice; Trim, twice; Navan, twice; and Duleek, once.

MONAGHAN:—At Clones, twice; Monaghan, four times; Castleblayney, four times; and Carrickmacross, twice.

ROSCOMMON:—At Athlone, twice; Castlebar, twice; Boyle, twice; Roscommon, twice; and Strokestown, twice.

SLIGO:—At Ballymote, four times; Sligo, four times; and Esky, twice.

TIPPERARY:—At Clogheen, once; Tipperary, once; Thurles, twice; Carrick-on-Suir, once; Cashel, thrice; Nenagh, twice; Roscrea, once; and Clonmel, twice.

TYRONE:—At Clogher, four times; Omagh, four times; Strabane, four times; and Dungannon, four times.

WATERFORD:—At Waterford, four times; Lismore, twice; and Doogarvan, twice.

WESTMEATH:—At Moate, four times; and Mullingar, four times.

WEXFORD:—At Ennisceorthy, twice; New Ross, twice; Gony, twice; and Wexford, twice.

WICKLOW:—At Wicklow, four times; Arklow, twice; Tinsely, four times; and Balinglass, four times.

(2.)—NUMBER of PETTY SESSIONS in every County in Ireland.

Petty Sessions,
Ireland.

Antrim	-	-	-	16	Kildare	-	-	-	11	Roscommon	-	-	-	24
Armagh	-	-	-	12	Kilkenny	-	-	-	17	Sligo	-	-	-	12
Carlow	-	-	-	6	King's	-	-	-	17	Tipperary	-	-	-	20
Cavan	-	-	-	16	Leitrim	-	-	-	9	Tyrone	-	-	-	20
Clare	-	-	-	18	Limerick	-	-	-	16	Waterford	-	-	-	14
Cork	-	-	-	45	Londonderry	-	-	-	12	Westmeath	-	-	-	16
Donegal	-	-	-	19	Longford	-	-	-	12	Wexford	-	-	-	11
Down	-	-	-	23	Louth	-	-	-	8	Wicklow	-	-	-	14
Dublin	-	-	-	11	Mayo	-	-	-	22					
Fermanagh	-	-	-	11	Meath	-	-	-	15					
Galway	-	-	-	40	Monaghan	-	-	-	7					
Kerry	-	-	-	22	Queen's	-	-	-	18					

(3.)—LIST of SENESCHAL COURTS in Ireland.

- ANTRIM:—Belfast, Lisburn, Glenarm, Ballymena, Ballyclare, Ballycastle.
- ARMAGH:—Armagh, Caledon, Tynan, Loughgall, Lurgan, Tandragee, Newry, Markeshill.
- CARLOW:—Carlow.
- CAYN:—Ballyboro', Swanlinbas, Killeshandra, Cootehill, Ballyconnell, Virginia.
- CLARE:—Sixmile-bridge, Kilaloe, Scarff, Ennis, Kilrush, Limerick.
- CORK:—Clonkilly, Castletown, Rosscarberry, Bantry, Bandon, Skibbereen, Kanturk, Cloyne, Cork, Fermoy, Castlemartyr, Charlesville, Dumanway, Kilworth, Killeagh, Macroom, Mitchelstown, Mallow, Middleton, Ballincollig.
- DONEGAL:—Armagh, Donegal, Ballintra, Donfahaghy, Letterkenny, Glenties, Dunglo, Londonderry, Raphoe, Pettigo, Mount Charles, Fahan, Ramltree, Killygordon, Stranorlar.
- DOWN:—Castlewells, Killybeg, Hillabore', Belfast, Killybeg, Killinichy, Downpatrick, Crossgar, Portlinter, Bryansford, Greyabbey, Moira, Donaghadee, Newry, Dromore, Rathfriland, Ardglass, Killybeg, Sainsfield, Kirkcubbin, Bangor, Strangford.
- DUBLIN CITY:—St. Sepulchre, Thomas Court, Grange Gorman, St. Patrick's, Kilmaham.
- FERNANAGH:—Kish, Enniskillen, Churchhill, Clones, Ballyconnell, Brookboro', Five-mile Town, Lisnakea, Irvinestown.
- GALWAY:—Clifden, Loughrea, Castleblakeny, Eyrecourt.
- KERRY:—Killarney, Kenmare, Tralee, Dingle, Listowell, Tarbert, Killybeg, Castleisland.
- KILDARE:—Nil.
- KILKENNY:—Castlecumber, Ballyraggett, Urlingford, Kilkenny, Graigue, St. Canice.
- KING'S:—Portarlinton, Parsonstown.
- LESTER:—Nil.
- LIMERICK:—Shanagolden.
- LONDONDERRY:—Castledawson, Newtown Limavady, Killes, Magherafelt, Drapers-town, Moneymore.
- LONGFORD:—Nil.
- LOUTH:—Nil.
- MAYO:—Newport Point, Ballaghaderin, Castlebar, Westport, Killybeg.
- MEATH:—Nil.
- MONAGHAN:—Monaghan, Castleblinney, Clones, Glaslough.
- QUEEN'S:—Shrule, Clonsilla.
- ROSCOMMON:—Boyle, Frenchpark.
- SLIGO:—Sligo, Colonee.
- TIPPERARY:—Cahir, Clogheen, Roscrea, Killeenale.
- TYRONE:—Donaghmore, Dungannon, Blackwaterstown, Castlederg, Armagh, Cookstown, Stewartstown, Augher, Clogher, Ballygawley, Trillick.
- WATERFORD:—Dungarvan, Lismore.
- WESTMEATH:—Glannon, Mullingar, Kibbegan.
- WEXFORD:—Nil.
- WICKLOW:—Nil.

Appendix, No. 3.
Seneschal Courts,
Ireland.

Several of these courts have done no business for many years, at least such is stated by the clerks of the peace.

Geo. Mathews.

Appendix, No. 4.

Appendix, No. 4.

PAPER delivered in by Mr. M. Leavelle, and referred to in his Evidence
of 13 March 1838.

Process.

COUNTY OF KERRY.
Division of Listowell, to wit.

Maurice Hart, of Liscurrig,
in the county of Kerry,
farmer, Plaintiff.

Thomas Crosbie, of Bally-
henque Castle, in the county
of Kerry, esquire, Defen-
dant.

By the Assistant Barrister at the Sessions for the
said County.

THE defendant is hereby required personally to appear
before the said Assistant Barrister, at Listowell, on the 31st
day of October instant, to answer the plaintiff's bill for the
sum of 4 l. sterling, loss, injury, and damage sustained by
plaintiff, in consequence of defendant, as Seneschal of Bal-
lynac and Ballingarry in present year, having undertaken to
prepare a certain appeal-bond to a decree obtained in said
Manor Court, and for which plaintiff paid defendant a sum of
8s. 8d., and which bond was informal and incorrect, whereby
said decree was affirmed against plaintiff, in consequence of which neglect on defendant's
part plaintiff suffered loss as aforesaid; or in default thereof, the said Assistant Barrister
will proceed as to justice shall appear.

Dated this 9th day of October 1837.

(Signed on behalf of the Plaintiff.)

Daniel Supplis, Attorney.

Notice.

John O'Brien,
Plaintiff.

Maurice Hart,
Defendant.

Sir,

Takes October Sessions, 20 October 1837.

TAKES notice, that I will, on the hearing of the appeal in this cause, at
the Listowell sessions, on the 31st of October instant, require of you to
produce the bond of appeal which has been lodged in your office to a
Manor Court decree obtained against me in Ballynac and Ballingarry Manor Court for the
sum of 2 l., due by note to one Michael Bourke; and should you decline or refuse to produce
said bond of appeal, secondary evidence will be given of its contents.

Dated this 26th day of October 1837.

Maurice Hart.

To Francis Crosbie, Esq., Clerk of the Peace,
Co. Kerry.

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I N D E X.

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Action on Recognizance. Useful regulation, if a party did not prosecute his appeal, that an action upon the recognizance should be brought against him in the quarter sessions court summarily, *Hetherington* 385.

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1. Castledawson.
2. Gwilliambrook.
3. Killesandra.

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II. In particular Places:**1. Castledawson:**

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2. Gwilliambrook:

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3. Killesandra:

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1. Generally.
2. Belfast.
3. Kilsnak.

1. Generally:

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3. Kilsnak:

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Appeal Bonds. More than half the appeal bonds prosecuted at assizes are informal, *Leonard* 561.—Many decrees of seneschals get affirmed on appeal in consequence of the informality of bail-bonds, *Leonard* 904.

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1. *Causes of Appeals, and Decisions thereon, and General Remedies proposed.*
2. *Obstacles from conduct of Seneschals.*
3. *Number of, from Particular Courts:*
 - i. Belfast.
 - ii. Cahir.
 - iii. Kilrush.
 - iv. Moylinny.
4. *Opinions in favour of Appeals being tried by Judges of Assize.*
5. *Opinions in favour of Appeals being tried by Assistant Barristers.*

1. *Causes of Appeals, and Decisions thereon, and General Remedies proposed:*

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2. *Obstacles from conduct of Seneschals:*

Difficulty of prosecuting appeals against seneschals from the necessity of proving that they held their office, *Leonard* 542-550.—Would be more numerous if seneschals did not throw every difficulty they could in the way of lodging appeals, *Cullinan* 715, 716.—Great difficulty in lodging appeals against seneschals from the obstacles they are able to throw in the way, *Cullinan* 768-770.—Great inconvenience happens from the great distance at which appeals have to be tried, *Hetherington* 389.

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ii. Cahir:

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iii. Kilrush:

The seneschal of this court always throws every impediment in the way of appeals, *Leonard* 1140.—The greatest possible facility is given to vexatious appeals, *Leonard* 1156.

iv. Moylinny:

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4. *Opinions in favour of Appeals being tried by Judges of Assize:*

Witness would prefer appeals being tried before judges of assize rather than quarter sessions, *Crawford* 1860.—Judges at assize have lately taken appeal cases first, to save persons expense of delay, *Hetherington* 415.—Should be allowed, in case of transference of jurisdiction from manor courts to quarter sessions, to the judges at assize, *Cullinan* 815.—Reasons why appeals should remain with the judge of assize, *Berry* 2253.—General feeling of assistant barristers is decidedly against manor courts; appeals should not be transferred from judges at assize to their jurisdiction, *Berry* 2256.

5. *Opinions in favour of Appeals being tried by Assistant Barristers:*

Suits of appeal being tried by civil bill at quarter sessions would be beneficial to all parties, both poor and rich, *Hetherington* 384.—It would be a better regulation if appeals went to quarter sessions instead of wazars, *Hetherington* 376.—It would be a great improvement if the trial of appeals was given to quarter sessions instead of the judge of assize, *Cullinan* 773.—It would be a very essential benefit to have appeals tried by the assistant barristers; it would be a great benefit to the poor, *Leonard* 1158.—It would be a great convenience if the appeals from manor courts was to be given to the quarter sessions, *Cochrane* 1487.

See also *Action on Recognizances. Assize. Appeal Bonds. Attachments. Costs. Manor Courts. Process. Quarter Sessions. Securities. "Stag Bail." Arbitration.*

Arbitration. Manor courts should be made courts of arbitration, *Macleodell* 2105—Assistant baristers very often summon an arbitration jury of three persons; how selected, *Macleodell* 2107.

Archer, Mr. Case of Archer, a storekeeper of Dublin, in the manor court, *Hetherington* 273.

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ATTACHMENT:

1. *Generally.*
2. *Advantages of the present System.*
3. *Evils of the present System.*
4. *Remedy proposed.*
5. *In particular Manors:*
 - i. Ballyconnell.
 - ii. Dublin, St. Sepulchre.
 - iii. Dungarvan.
 - iv. Tipperary.

1. *Generally:*

Legal proceedings under attachments, *Leonard* 1170—Cost of issuing attachment against body or goods formerly 19 s. 2 d., now reduced to 12 s. 6 d., *Hetherington* 395.

2. *Advantages of the present System:*

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3. *Evils of the present System:*

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4. *Remedy proposed:*

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ii. *Dublin, St. Sepulchre's:*

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iii. *Dungarvan:*

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Constables. *Costs.* *Distringas.* *Farmers.* *Provisions.* *Ships.*

ATTORNEYS:

1. *Generally.*
2. *In Particular Courts:*
 - i. Castledawson.
 - ii. Caher.
 - iii. Dungarvan.
3. *Quarter Sessions.*

1. *Generally:*

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2. *In particular Courts:*

i. Castledawson:

Attornies practise in this court; the seneschal would not allow others, *Croxford* 1763.

ii. Caher:

Practitioners generally attorneys; sometimes barristers have conducted cases, *Barry* 2124, 2125—No person beneath the rank of an attorney allowed to practise in witness's court, *Barry* 2126.

iii. Dungarvan:

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3. *Quarter Sessions:*

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Murphy. See *Gault v. Murphy*.

O.

Oath. Evils arising from the construction of the Act as to examining on oath under 200 *l.*, *Macaulay* 179-181—Same oath which is administered to assistant barristers in civil bill courts, should be taken by seneschals on their appointment, *Leonard* 1050.

See also *Affidavits*.

P.

Patents. The only remedy Government has against seneschals is by applying for the revocation of the patent; no case on record of a government having found itself able to have a patent revoked, *Mathews* 952.

Patersen, Mr. His case in Kilsrush manor court; interference of the lord of the manor, who has taken proceedings in the higher courts against the seneschal, *Leonard* 1057.

Patrick's, St., Close, Dublin. Mr. Clarke, seneschal of this manor, has closed his court, *Hetherington* 469.

Petty Sessions. In petty sessions verdicts, on parties complaining of decisions to Government, cases are sent back to magistrates for revision, *Mathews* 950—Return handed in by witness of the number of petty sessions courts in Ireland, *Mathews* 976—Petty sessions courts meet on an average once a fortnight, *Mathews* 979—Number of petty sessions in every county in Ireland, *App.* p. 140.

Plaintiffs. Power of seneschals, under 7 & 8 Geo. 4, c. 66, to examine plaintiffs in cases under 40 *s.*, *Barry* 2184.

Reports, 1837-8—continued.

Process. Mode of dating the process should be altered, which is now seven days before the trial, and can be served only three, *Macaulay* 102.—Owing to registration cases, and legacy and replevin cases, having precedence, impossible for a sutor with a common process to know when his case will come on, *Macaulay* 190.

Promissory Notes. Cases in which actions have been brought on promissory notes, and the verdicts reversed on appeal, *Hetherington* 494-498.

Provisions. Butter, fish and other perishable articles, have been seized under attachments from manor courts, *Begge* 1612.—Conduct of the manor court of Castlemore on occasions when provisions are the subject of actions, *Madsenell* 2016, 2017.

Purner and Doobally. At present there is no seneschal to this court; on the death of the last officer no other was appointed, *Cochrane* 1444.

Q.

Quarter Sessions. Districts of quarter sessions courts too large; courts not sufficiently frequent, *Macaulay* 188.—If these courts were extended to six times a year, the manor courts would be virtually abolished, for parties would seek recovery of their debts at quarter sessions, *Hetherington* 441.—Merchants of Belfast prefer the quarter sessions to the manor court at Belfast, *Hetherington* 444.—If manor courts were generally abolished, their business would be transacted at quarter sessions, *Hetherington* 473.—A better means of justice than manor courts, *Callinan* 801.—The quarter sessions courts could not deal with seneschals for misconduct; have not sufficient jurisdiction, *Leaward* 1091.—Assistant barristers' courts preferred in Curran to manor courts by inhabitants generally, *Cochrane* 1385.—Hardship to persons when brought from a considerable distance, from want of subdivisions in the quarter sessions court, *Cochrane* 1379, 1398.—All cases of debt approaching 40s. should be tried altogether by assistant barristers, *Begge* 1625.—Shopkeepers and respectable persons prefer the assistant barristers' courts to manor courts, *Begge* 1681.—Extent of district in the new division of the quarter sessions court of Dungarvan, *Begge* 1802-1805.—Return of quarter sessions in every county in Ireland, *App.* p. 140.

See also *Appendix*, 5. *Attornies*, 3. *Debts, Small Jurisdiction. Registration Cases.*

Queen's Bench. Supposed that seneschals hold their power from the Crown, and that the Attorney-general may bring the lord of the manor or the seneschal into the Queen's Bench, but it has never been acted on, *Mathews* 938.

R.

Retill. Court of Retill is always held at a tenant's house, by direction of Lord Glengall, *Barry* 2116, 2117.

Record Court. In the record court Dublin there is no notice of attachment at all; consequences to creditors, *Hetherington* 502-505.

Registration Cases. Have precedence in quarter sessions courts over all others, *Macaulay* 190.—Should be taken from the bands of the assistant barristers, *Macaulay* 191.

Rascals. Riot at Roscrea on enforcing a seneschal's warrant; conduct of the assistant barrister calling for the patent of the seneschal, and dismissing the cause on refusal to produce it, *Barry* 2256.

S.

Sause, Mr. Correctness of the evidence given during last session of Parliament by Mr. Sause, *Macaulay* 5-31.

Securities. The Act requires in cases of appeal that security should be given for the payment of the debt and double the costs, which is never acted on, *Macaulay* 145-146.—By the 7 & 8 Geo. 4. the seneschal and jury may take securities for small debts, to be paid by weekly instalments, *Barry* 2169.

SENESCHALS:

1. *Generally.*
2. *Appointment of, and Persons holding the Office of.*
3. *Returns of Number of, in Ireland.*
4. *Irresponsibility of.*
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1. *Generally:*

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2. *Appointment of, and Persons holding the Office:*

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3. *Returns of Number of, in Ireland:*

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4. *Irresponsibility of:*

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5. *In Particular Manor Courts:*

Antrim.—Professions of those who superintend manor courts in Antrim, *Macaulay* 89.

Castledawson.—Appointment of witness for life, in consideration of surrendering the customs of the fairs and markets, *Crawford* 1807-1813.

Clare.—In all cases where the amount is under 5s. the case is decided by the seneschal, *Callinan* 709.

Dublin.—These officers in Dublin and its neighbourhood are men in every respect qualified to fill the office to which they are appointed, *Hetherington* 352-354.

Dungarvan.—The seneschal of Dungarvan is a very fair, intelligent, and impartial man, *Bagge* 1567.

Kilrush.—Is not a professional man, or of unexceptionable character, *Leonard* 1001, 1002.

See also *Appeals*, s. *Attorneys*. *Barristers*. *Barriers and Attorneys*. *Castlbar* and *Westport*. *Castlemore*. *Church*, Mr. *Clare* and *Clanroad*. *Clogheen*. *Cole*, Mr. *Compensation*. *Complaints to Government*. *Coronary and Coatehill*. *Demore*. *Dungarvan*. *Fitzgerald*, Mr. *Grattan*, Mr. *Isabouda*. *Juries*. *Jurisdiction*. *Kilgoss*, Mr. *Lords of Manors*. *Manor Courts*. *Meglinney*. *Oatha*. *Peteron*, Mr. *Patents*. *Racris*. *Sureties of Seneschals*.

Ships. Witness has heard of vessels and boats ready to sail for sea being seized under attachment, *Bagge* 1568.—Hardship of a case where a vessel was seized for debt under attachment, where the debtor was only part owner, *Bagge* 1559.

Small Debts. See *Debts*, Small.

"*Stag Bail*." Duty of seneschals to refuse stag-bail, *Hetherington* 378.—More ready means exist of detecting stag-bail in the superior courts than the manor courts, *Hetherington* 407.

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Summons. Same form of summons and of proceeding before magistrates for debt cases, as on wages cases at present, recommended, *Bagge* 1632.—See also *Debts*, Small.

Sureties of Seneschals. There is no provision by Parliament for renewal of sureties of seneschals from time to time, *Leonard* 1095.

Swallowlin. Cause of this manor court ceasing to exist, *Cochrane* 1327.—People generally glad of its cessation, *Cochrane* 1339.

T.

Templepatrick. At Templepatrick the court is held at a public-house, *Macaulay* 96.

Thomond, Lord. Has manorial rights in the county of Clare, *Callinan* 624.

Tipperary. See *Attachments*, 4. iv.

Report, 1837-8—continued.

Tithes. Tithes suits might be brought in manor courts, though since the Composition Act there has been no action for tithes in any manor court, *Leonard* 889.—Case of bond-ship to many persons from being summoned from considerable distances in tithes cases, from want of subdivisions as to assistant barnisters' courts in Cavan, 1398.

See also *Church, Mr.*

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V.

Vandeleur, Mr., of Kilrush, has manorial rights in the county of Clare, *Collins* 624.

Vendicts. See *Jurics*.

W.

Westport. Evidence concerning Westport manor court, which includes Lord Sligo's estate, *Macdonnell* 2007.

Wexford. In this county there are no manor courts, *Mathews* 952.

Wicklow. In this county there is no manor court, *Mathews* 952.
